THE DEMOCRATS' ETHICS PROBLEM
THE EDITORS

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CORRESPONDENCE

MOTHER'S HELPERS

THANKS FOR JOINING THE GROWING list of publications that are giving serious, thoughtful, policy-oriented attention to the subject of parenthood and working motherhood in this country ("Meet the Parents," and "The Missing Joy," July 4). So often, the press reduces the issue to a question of working moms versus stay-at-home moms. Articles are often simplistic, such as *The New York Times Magazine*'s "OPT-OUT REVOLUTION," which concluded that maybe smart, educated women just want to stay home when they have kids. In fact, it was obvious that many of the women written about had quit because their high-powered workplaces did not offer a family-friendly middle ground. The brain drain this country experiences when highly skilled moms are forced out of the workplace because of a lack of attractive part-time or flexible-time positions—and when they are prevented from reentering the workforce in a meaningful way after their kids are grown—is a serious problem for our productivity-driven economy. And it is helpful when an analysis frames the issue this way, rather than treating the availability of family-friendly policies as a charitable accommodation to moms.

JANE ISTVAN
Philadelphia, Pennsylvania

AS A CLINICAL PSYCHOLOGIST WHO has been in practice for 25 years, I read with dismay Zoë Heller's review of Alice Miller's latest book ("Meet the Parents," July 4). *Prisoners of Childhood* was one of the books that I read at the outset of my career. Despite being, in a sense, a dilution of other psychoanalytic work or having an "over the top" tone, some of Miller's theses have often rung true to me in the years I have worked with patients. My dismay, however, actually stemmed from the arch and disdainful tone with which Heller wrote about these books. In addition, she conflated psychoanalytic theories and the recovery movement, which is nothing less than odd. Finally, she was dismissive not only of psychoanalytic thought, but also of the notion that child abuse is more rampant than

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HELP!
CHILD ABUSE, PARENT ABUSE
Zoë Heller
MOTHERS ON THE VERGE OF A NERVOUS BREAKDOWN
Ruth Franklin

Freud ultimately acknowledged and that the shaming practices of "ordinary" parents have profound effects on self-esteem. It is difficult to know whether the tone she adopted was simply a stylistic device or whether she really has considerable venom in regard to these issues. I notice that THE NEW REPUBLIC sometimes calls upon economists to review books on economics and historians to review books in their field. TNR should utilize someone trained in the field of mental health to review a book like this, so that the commentary is less of an obloquy.

KAREN DAINER-BEST
South Miami, Florida

ZOË HELLER RESPONDS:
I am not aware of having conflated psychoanalysis and the recovery movement in my review of Miller's book. While it is true that I found many aspects of the book worthy of disdain, it remains unclear to me why saying so should be considered improper. As for my fitness to cast an opinion on Miller's writing, I would remind Karen Dainer-Best that *Prisoners of Childhood*, like the rest of Miller's oeuvre, is a work of popular psychology, aimed, quite explicitly, at a lay audience. As Samuel Johnson once remarked in defense of the nonspecialist critic, "You can scold a carpenter who has made you a bad table, though you cannot make a table. It is not your trade to make tables."

GUILT FREE

I MUST TAKE ISSUE WITH MICHAEL B. Oren's assertion that the point of *The Downfall* is "about letting Germany off the hook" ("Pass the Fault," July 4). I can only assume that the version of the movie he saw ended abruptly with Traudl Junge's statement that she "never once suspected the evil deeds committed by her mad ex-boss," or that the English translation of the film leaves much to be desired. Her actual last words in the film were about the young Nazi resistance fighter Sofie Scholl, who was executed by the regime for her activities. Upon discovering that she and Scholl had been born in the same year, Junge remarks that she then realized that her youth and inexperience were no excuse for her ignorance about what was happening in her country. Rather than letting Germany off the hook, Junge's recognition of her own culpability forces others who were alive (and adults) at the time to contemplate their passivity in the face of such atrocities and compels younger Germans to work to ensure that the Holocaust is a horror that will never be repeated.

STACEY HAGMAN SCHLIEBITZ
Buechel, Germany

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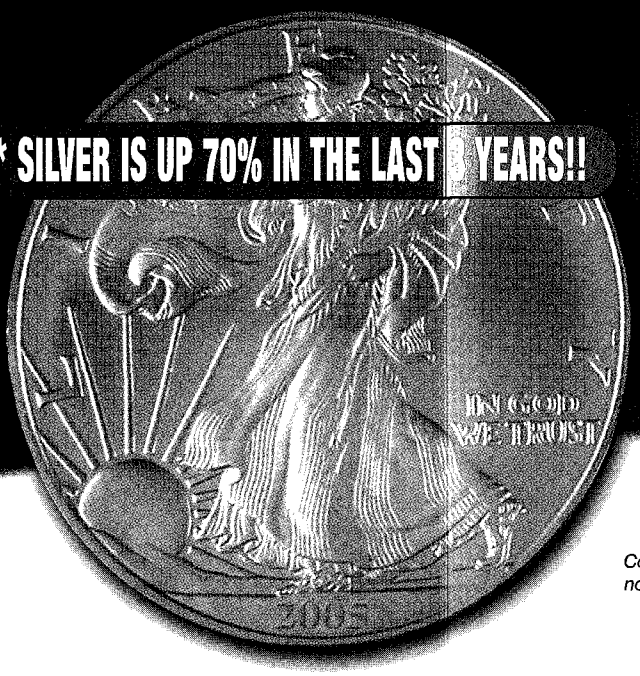

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Pick and Lose

TRB

FROM FORT LAUDERDALE

HAS ANY WORD DONE MORE to cloak the modern conservative agenda than "choice"? As President Bush and Republican congressional leaders regularly remind us, Social Security privatization would give workers investment choices, school vouchers would give parents education choices, and Medicare privatization would give retirees health care choices.

All of this is technically true: Social Security privatization, for example, really would present new opportunities for investing retirement savings. But what conservatives in this country never mention is that giving us these new choices also means taking something away—typically, programs that make us more secure. That's certainly true of their plans for Social Security, since privatization would mean an end to the guaranteed pensions upon which most seniors depend. It's probably true for education, as well, given how easily school vouchers could undermine funding for the public schools that most Americans use.

Health care, though, may be the most vivid example of this. And a new bill quietly moving through Congress this summer shows why. It is called—what else?—the Health Care Choice Act. Sponsored by Representative John Shadegg of Arizona and endorsed by everybody from *The Wall Street Journal* editorial page to the Cato Institute, it was voted out of committee late last month. With both Speaker Dennis Hastert and Bush now embracing it, it seems destined for approval by the full House soon, though its fate in the Senate remains uncertain.

At first blush, Shadegg's proposal seems utterly sensible. Today, if you are trying to buy an insurance policy for yourself or your family on the open market—i.e., if you don't get coverage through your employer—you can buy only policies sold within your state. Your state, in turn, has set minimum standards for everything from the services insurers cover to the way insurers set their prices. Shadegg's bill would obliterate that system: You would be allowed to buy any policy sold anywhere in the country, even if it doesn't conform to your home state's rules. So, if you live in Massachusetts, where policies tend to be relatively expensive in part because they have strict regulations, you could buy your coverage from Missouri, where they are generally cheaper thanks to looser guidelines. Ideally, the bill's supporters say, people would shop for insurance the same way they shop for consumer goods: online, comparing products and prices, and then deciding on the package that best suits their needs.

Lovely—except that health insurance isn't just another sweater you can return to L.L. Bean if it arrives with holes in it. In the wide open insurance market that Shadegg proposes creating, consumers won't have somebody to warn them if they are about to purchase a defective policy. Just ask the people left owing $250 million in unpaid medical bills because they had purchased fraudulent insurance policies in the small-business market (which is prone to the same problems as the individual market). Among the well-publicized cases were a man in Georgia who had to declare bankruptcy and a former race-car driver in Florida who died after he couldn't afford a bone-marrow transplant. In both cases, the beneficiaries had been duped into buying insurance from unlicensed carriers that seemed completely legitimate.

Lately states have tried to clamp down on fraud; Florida, in particular, became aggressive about monitoring health insurance after the race-car driver's story made headlines. But allowing companies to market policies out of state would flood consumers with new options, overwhelming the regulators, many of whom already feel undermanned in the fight against scam artists. There would also be a "race to the bottom," as even the legitimate insurers would flock to the states with the most lax regulations about solvency and marketing practices, much as credit card companies now flock to Delaware because of its minimal oversight and taxes. Even in those states determined to be vigilant, this move would render local rules on health insurance irrelevant.

Getting rid of those regulations, of course, is precisely what Shadegg and his allies have in mind, since they think needless state regulations are responsible for making health insurance so expensive in the first place. As proof, they cite some state rules that really do seem dubious—or, at least, suspiciously likely to benefit certain well-connected groups of health care providers. But along with regulations guaranteeing coverage of podiatry or acupuncture are mandates to cover cancer screening, psychiatric treatment, and other services that most Americans rightly deem essential. Other regulations are designed to prohibit insurance companies from discriminating among customers based on age or propensity for illness.

Do all of these rules drive up insurance rates, particularly for healthy people relatively unlikely to consume expensive medical services? Absolutely. But they do so in order to make insurance more affordable for people who need intensive medical services—the ones who arguably need insurance coverage most of all. Get rid of the rules, and some of these people will have no choices at all. (Shadegg and others would theoretically address this need by supporting "high-risk" pools. But such pools, which exist in about two-thirds of the states, have proved woefully inadequate, typically offering skimpy coverage and charging higher premiums.)

That's not to say the market for individual health insurance works particularly well. Large companies can spread the cost of insurance among all of their workers, thus securing relatively affordable coverage for them without restrictions on medical conditions. Individuals cannot do this, which is why their coverage is so ludicrously expensive and hard to obtain, even with the regulations.

But the best way to fix this isn't to gut existing regulations. It's to create one big pool of beneficiaries through some kind of universal health insurance system—whether it's one that allows people to pick from among well-regulated private health plans (like President Clinton once proposed) or one that simply bypasses insurance companies altogether, giving consumers direct, affordable access to the doctors and hospitals they like best (like many European nations already do). Those aren't the kind of choices that conservatives want to give Americans, since they happen to require expanding government. But they're the kind of choices Americans would appreciate most.

JONATHAN COHN

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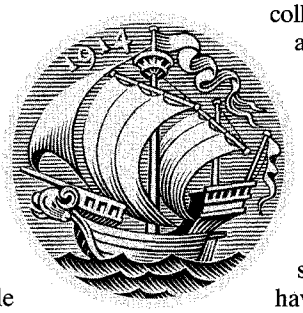
Loss Leader

If New Jersey Representative Bob Menendez isn't the cause of the House Democrats' problems, he's certainly a glaring symptom. According to a recent *New York Times* report, Menendez, the House's third-ranking Democrat, has steered hundreds of thousands of dollars in lucrative consulting contracts to a former aide. Not surprisingly, the relationship has piqued the interest of Republicans. As Bob Novak reported this week, Republicans see an ethically compromised Menendez as a deterrent to future attacks on ethically challenged and embattled Majority Leader Tom DeLay.

One would think the risk of losing Menendez in an ethics fight would be a small price to pay for toppling DeLay. But, if recent history is any indication, Democrats will beg off. The last six months' worth of revelations about DeLay's questionable foreign travels and his association with disgraced former lobbyist Jack Abramoff have provided Democrats with their best opportunity in years to wound the congressional GOP. And yet, despite some occasional progress—as when Democrats forced the GOP leadership to reverse its earlier softening of House ethics rules—House Democrats have been tentative at best. They have refused pleas by good-government groups to keep pressing for an outside counsel to investigate DeLay (as is their right). They have run the occasional negative ad but haven't aggressively filed ethics complaints against top Republicans, such as Ohio Representative Bob Ney, who did favors for Abramoff in exchange for his own exotic travel, and Pennsylvania Representative Curt Weldon, whose daughter's lobbying activities have attracted scrutiny. And, despite several months' worth of additional revelations, Democrats have yet to file a second ethics complaint against DeLay.

Just about every one of these omissions can be attributed to Republican promises to retaliate. For example, just when Democrats stood poised to make an issue out of Abramoff-funded junkets this spring, Republican campaign committee spokesman Carl Forti told the *Times*, "Democrats have just as much liability on all this as Republicans." And, often, the GOP has promised to hit Democrats where it hurts most: their leadership. Prior to Menendez, Republicans targeted Minority Leader Nancy Pelosi—whose political operation paid a fine in 2003 for campaign-finance infractions. "To the extent that she's violated federal law, she's brought into question the integrity of the House," Florida Representative Tom Feeney announced to *The Hill* in December.



But, while it's easy to see why high-ranking Democrats like Pelosi and Menendez would hold their fire, it's not clear why rank-and-file Democrats would go along. House rules give the minority party virtually no power—except over ethics matters. Which means that pretty much the only way for Democrats to regain the majority is through the kind of ruthless assault on corruption that invariably endangers congressmen on both sides of the aisle. As The New Republic's Michael Crowley has noted ("Learning from Newt," January 24), Newt Gingrich grasped this logic intuitively when he fanned the flames of the House banking scandal in the early '90s. Gingrich believed that, while seizing on ethics presented real risks—Gingrich himself was implicated, albeit on a relatively small scale—a scandal that touched almost everyone in Congress would invariably hurt Democrats more, since they controlled the House. Conversely, a refusal to risk collateral damage might have saved some longtime GOP incumbents but done nothing to return the party to power.

Today Democrats find themselves in a similar position: The same status quo that guarantees Pelosi and Menendez their leadership positions effectively consigns House Democrats to minority status. In their defense, some Democrats have rejected this dubious bargain. Much of the credit for DeLay's current political trouble goes to a former Democratic representative named Chris Bell, who last year filed the complaint that led to DeLay's official admonishment. House Democratic campaign Chairman Rahm Emanuel has reportedly told colleagues he plans "to go after every ethically challenged Republican out there." But, far more often, rank-and-file Democrats have confused the party's interests with the interests of its leaders, a confusion that Republicans have mercilessly exploited. At the height of the furor over DeLay this spring, an anonymous Republican aide told *Roll Call* that, "in the end, we're the most affected by [the ethical cloud over Congress]. ... We are in the majority, and we have a hell of a lot more to lose than they do." How many more years in the minority will it take before Democrats reach the same conclusion? ■

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NOTEBOOK

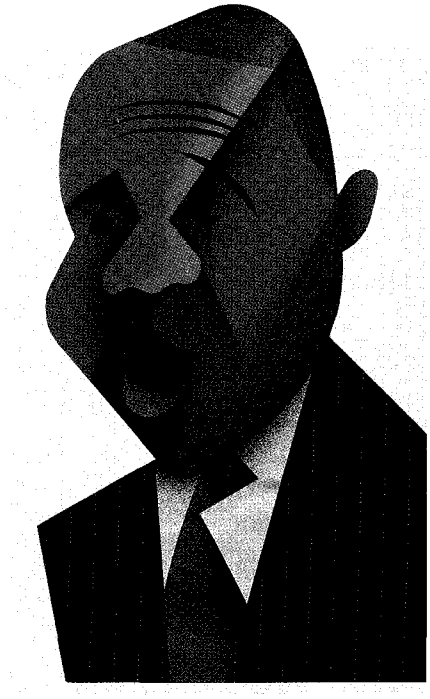
CHARLES TAYLOR'S CALABAR STINT . . . TOM KEAN WON'T TAKE A HINT

NIGERIAN HOSPITALITY

POLITICAL ASYLUM HAS BEEN GOOD to Charles Taylor, the former Liberian president who has been indicted on 17 counts of crimes against humanity at a U.N.-sponsored court in Sierra Leone. Since 2003, Taylor has been living it up in exile in Calabar, Nigeria. Granted, his new émigré lifestyle required some adjustments: As part of his asylum deal, Taylor had to agree to stop meddling in West African politics. But, as Ryan Lizza noted in these pages this spring ("Charles at Large," April 25), allegations have surfaced that, despite his forced retirement, he engineered an attempted assassination of the president of Guinea and interfered in upcoming elections in Liberia. Old habits die hard.

The Bush administration has indicated that it would like to see him held accountable for his dictatorial antics, but Taylor still has at least one staunch ally: Nigerian President Olusegun Obasanjo. During a White House visit last May, Obasanjo assured reporters that he would not be handing Taylor over to the court, never mind his apparent violations of the asylum terms. "Nothing should be done to erode the credibility of Nigeria," he explained, including, apparently, deporting a raving ex-despot set on plunging Africa into violent turmoil. Obasanjo's concern for the "credibility" of Nigeria has even translated into action. Last week, Amnesty International issued a statement decrying the arrests of human rights workers in Nigeria who had been lobbying for Taylor's expulsion. (The workers were later released.)

Meanwhile, Obasanjo has remained mum on Taylor's future. Leaders of Guinea, Liberia, and Sierra Leone tried to prod the Nigerian president with a joint statement "suggest[ing] to the government of Nigeria that there may now be need for a review of the terms of the temporary stay granted to Charles Taylor." Somehow, we can't imagine Obasanjo takes suggestions.



Charles Taylor

THE KEAN MUTINY

TOM KEAN, THE FORMER NEW Jersey governor who co-chaired the 9/11 Commission, apparently doesn't know when enough is enough. First, he steers his meddlesome commission into the question of how seriously the Bush administration treated Al Qaeda before September 11—as if assurances from ever-candid White House officials that they had always burned the midnight oil to kill Osama bin Laden weren't adequate! And, when White House staffers wouldn't let the mistrustful commission see privileged documents that would have helped settled the issue (including one titled "Bin Laden Determined to Strike in U.S."), Kean had the nerve to go public in late 2003 and accuse the administration of stonewalling. Not that *that* was enough: After administration officials labored, tirelessly no doubt, to grant the commission unfettered access, Kean had the unmitigated gall to request a 60-day extension for his work to make up for lost time. What does it take with this guy? It's not like the commission's report was the only definitive historical account of U.S. counterterrorism policy pre–September 11 available to the public or anything!

But now Kean and his colleagues have gone way too far. The ten commissioners announced last year that they would continue to collaborate even after their congressional mandate expired last August, with plans to issue a "report card" this September, on the presumption that commissions need to pursue their recommendations after the initial publicity or risk consignment to irrelevance—a flimsy pretext if ever there was one. (Does Kean forget the path-breaking work of the commission on postal service restructuring?) All of a sudden, these interlopers are complaining that the administration hasn't turned over a single document they've requested. Kean told *The New York Times* that it's all "very disappointing" and that he's only trying to "make the public safer." It fell to Dana Perino, a White House spokeswoman, to send a subtle hint: "There is ample public information available for them to review." Absolutely. It's not like the Bush administration has classified more information than any administration in recent memory. At this point, Tommy, it seems you just can't take a hint.

TIME FOR A KOFI BREAK

YES, EVERYONE IS INNOCENT UNTIL proved guilty. But there is no reason for anyone to continue to pretend that Kofi Annan is an honorable man, fit to be secretary-general of the United Nations. For several years now, Annan has dodged documented evidence of indifference to genocide in Srebrenica and Rwanda with high-minded calls to do something—he has actually done nothing—in Darfur

DAVID COWLES

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and other centers of man-made misery. (About Darfur, he made sure that the word "genocide" not be applied to the catastrophe, lest the United Nations be called upon to take stronger action.) It is also evident, by now, that Annan has so mismanaged the workings of the Secretariat that it is a laughing stock whenever and wherever employees of the organization gather. It does have what you might call a loyal staff: people who, if they didn't have a job in the modernist tower on the East River, would have to go back to Bucharest or Brazzaville. All of this, alas, Annan could have survived. Standards of leadership are not high at the United Nations. Remember Dr. Kurt Waldheim, certified Nazi—though he, too, was protected for some years by the indulgent U.N. lobby, which still seems to believe that, whoever is at its helm, this mess of an organization is still "the world's last best hope." Hope on. But what will finally bring Annan down is his tolerance for pecuniary fraud by his son and his immediate aides. These are people for whom he vouched again and again. And the fact is, Annan knew a lot more than he admitted about his own son's perfidy, as e-mails examined by the Independent Inquiry Committee into the heavy-with-scandal Oil-for-Food program have shown. The committee is chaired by Paul Volcker, a noted economist and former head of the Federal Reserve. He is a scrupulous public servant who does not allege what he cannot prove. In the wake of Volcker's work, one of Annan's aides has already been arrested for allegedly taking nearly $1 million in illegal kickbacks from Oil-for-Food contractors. More serious for Annan is that Benon Sevan, an intimate whom he had continually defended, was also accused of fraud. He is conveniently now in Cyprus. The big question is whether Annan will insist on continuing to burden the United Nations with his presence or finally go and write his memoirs. It would be especially interesting to read his chapters on Bosnia and Rwanda. ■

TNR.commentary

&c.

TRUTH IN ADVERTISING: Corruption is sure to be a key Democratic campaign theme in 2006, and we're already seeing a preview in the stinging attack ad now running against Montana Republican Senator Conrad Burns. The ad charges that Burns "[took] $136,000 from notorious lobbyist Jack Abramoff, now under federal investigation" and did Abramoff a tawdry legislative favor. The GOP is fighting back, demanding that local TV stations pull the "false and defamatory" spot on the grounds that Abramoff never directly contributed to Burns's federal campaign committee. But that's a laughably thin semantic point. First, Abramoff himself did give $5,000 to one of Burns's PACs (which can accept a higher dollar total than his federal campaign account). More to the point, Burns reaped the rest of that money from Abramoff's Native American tribal clients, whose names should be familiar by now to any Abramoff-scandal junkie: the Michigan Saginaw Chippewas, the Louisiana Coushattas, the California Agua Calientes, and the El Paso Tiguas.

Coincidence, perhaps? Maybe the tribes supported Burns without Abramoff's encouragement? Not likely. It's clear that Abramoff gave his tribal clients highly specific instructions about how to distribute their political dollars, and that he watched over these donations carefully. Indeed, it appears that many tribal contributions physically passed through Abramoff's hands before landing in the accounts of their congressional recipients. Consider an October 21, 2002, e-mail given to me earlier this year by a Coushatta official. It was sent by Brigham Pierce, a subordinate at Abramoff's law firm, Greenberg Traurig, to another Coushatta official:

> Hello Erick,
>
> I have a check (#00117) made out to Walsh for Congress Committee for the amount of $2,000.
>
> I need this check to be re-written to read: Future Leaders PAC
>
> The FEC # is C00269407
>
> Address of the PAC: 1155 21st St. NW Ste. 300
>
> Washington, DC 20036
>
> Please send us the check here at our address:
>
> Attention: Brigham Pierce/Stephanie Short
>
> Greenberg Traurig LLP
>
> 800 Connecticut Ave. Ste 500
>
> Washington DC, 20006
>
> I also submitted an earlier verbal request via phone to have Check #00107 to be re-cut to read: Louisiana Senate 2002 instead of "Friends of Mary Landrieu." The amount is also $2,000.00
>
> If you could please follow-up with that request as well, it would be greatly appreciated. Thanks for you[r] help.
>
> Brigham

In other words, these donations were obviously Abramoff's handiwork. And Coushatta documents show several other cases in which Abramoff's office either returned actual checks to members of Congress or provided instructions for checks to be reissued.

After one local TV station caved to the GOP legal threat, the Montana Democratic Party made a tiny tweak to the ad's wording to say that Burns took money from Abramoff and his associates. Maybe now Burns will have to stop obfuscating and start addressing his sleazy relationship with Jack Abramoff.

—Michael Crowley

CRIMINAL MIND: Waxing poetic on the values of the heartland is a favorite pastime of the conservative coastal elite. So it's no surprise that Peggy Noonan devoted her *Wall Street Journal* column last Thursday to the cultural and physical beauty of West Virginia. But this phrase jumped out at me:

> Someone else said, approvingly, "Everyone keeps a gun in West Virginia. Crime is low." Later I would be told it has the lowest violent crime per capita in the United States. It is very nice, when traveling, to see your beliefs and assumptions statistically borne out.

Being told that West Virginia has the lowest violent crime per capita doesn't make it so. And, according to the FBI, West Virginia does not in fact have the lowest violent crime rate in the country. But more telling than Noonan's sloppiness is this quote: "It is very nice . . . to see your beliefs and assumptions statistically borne out." This speaks to the way conservatives approach evidence. Rather than looking at the statistics and basing policies on what they see, they make assumptions and cling to beliefs—and then they look for statistics to support them. This backward empiricism characterizes everything from supply-side economics to the Bush administration's selective use of intelligence to make the case for the Iraq war, and, as Noonan has now so helpfully pointed out, apparently crime and gun control, too.

—Ben Adler

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Don Young's legacy.

Road Model

BY CLAY RISEN

JUST AFTER DAWN on October 19, 1864, a force of 14,000 Confederate soldiers surprised a Union camp along Cedar Creek, at the northern edge of Virginia's Shenandoah Valley. The Union troops quickly retreated. But what looked like an easy Confederate victory fell apart when Major General Philip Sheridan arrived on horseback, rallied his troops, and won a crushing counterattack. The Battle of Cedar Creek not only signaled the end of the Confederates in western Virginia—making it possible for the Union to pressure their capital, Richmond—but it gave a political boost to Abraham Lincoln, who won reelection a few weeks later. In 2002, recognizing the significance of the site, President Bush made it a national park.

Today another battle is raging over Cedar Creek. Long before Bush—or anyone else—paid much attention to the battlefield, the federal government built Interstate 81 along its eastern edge. Now, traffic along the highway is bustling, in some places far exceeding the road's carrying capacity. To alleviate this congestion, a construction consortium led by Halliburton subsidiary Kellogg Brown & Root (KBR) is negotiating a $13 billion plan to expand Virginia's entire stretch of I-81 by adding at least two dedicated truck-toll lanes in each direction. The project takes advantage of a Virginia law—known as the Public Private Transportation Act (PPTA)—that allows firms to propose, bid, and control state infrastructure. In this case, the construction consortium, called STAR Solutions, would require trucks to use its new lanes, reaping a profit off the tolls.

The idea of a superhighway running through the Valley has locals up in arms. A few weeks ago, I drove out to Cedar Creek to meet John Hutchinson, program manager for the Shenandoah Valley Battlefields Foundation and a leading opponent of STAR's plan. Showing me around the new park—still largely undeveloped, with no campgrounds or historical markers—Hutchinson said the expansion of I-81 would devastate not only Cedar Creek and the other Civil War battlefields strung along the Shenandoah Valley, but countless ecosystems already made fragile by the region's fast-paced development. "They're going to put down eight acres per mile of new pavement" in a project 325 miles long, he told me. And Hutchinson is hardly alone. The plan is opposed by an unlikely coalition of environmentalists, local governments, and business owners. Manufacturers fear tolls would add millions to shipping costs and scare off investment, while truckers grumble about paying over $100 to travel the route. Good-government groups oppose it as well—Taxpayers for Common Sense considers it the country's second-most wasteful infrastructure project.

With so much opposition, how has it managed to survive? The answer lies in a striking intersection of shrinking state coffers, big-business interests, and federal largesse. House Transportation Committee Chair Don Young of Alaska has labeled the project his legacy, giving it some $141 million in the most recent highway bill. Meanwhile, the consortium has thrown hundreds of thousands of dollars in campaign contributions at Young. But the key to the project's unlikely survival is the PPTA itself, which, over the last decade, has morphed from an innocuous way to fund infrastructure to a big-business bonanza, essentially allowing companies like KBR to dictate the direction of infrastructure development, putting profit over good policy and largely excluding public input. Worst of all, many states are looking to Virginia's PPTA, and the I-81 plan in particular, as a model for their own infrastructure plans. As Young told *The Washington Post* last year, I-81 "is close to the capital, so people should see, I think, that this is a great success and they would start demanding it in other parts of the nation." Which means that Virginia's experience could quickly become the country's.

HUTCHINSON, A STOCKY, baby-faced native of Staunton, several miles down I-81, has spent most of his life in the Shenandoah Valley. As a child, he watched the interstate emerge from the valley's woods and farmlands. Today, he grants it a grudging respect—I-81 is, after all, the linchpin of the region's economy, even as it threatens its natural resources and historic sites. During my visit to Cedar Creek, Hutchinson and I toured the battlefield in his pickup, and, as we topped a short, wooded bluff, he said, "There's our baby." In front of us, about 20 feet off the ground, was I-81, humming with traffic.

Built in the 1960s, it was designed to carry up to 25,000 vehicles per day, 15 percent of them trucks. But today, the interstate, known as the "NAFTA highway" for the high volume of cargo it funnels between Southern manufacturers and the Canadian border, is bulging—carrying up to 31,500 vehicles daily, more than a third of them trucks. Even Hutchinson admits that something needs to be done—the question is what.

Improvements funded directly by the state are unlikely. Like most states, Virginia is unable to pay for the sort of infrastructure expansions its economy demands. But, while others eke by with Band-Aid improvements, Virginia took a bold step in 1995 and passed the PPTA, which allows solicited and unsolicited private infrastructure proposals. The idea was that the state, after identifying necessary improvements, would take bids; companies would then raise funds and build and maintain the projects. In return, they would reap a profit, usually by tolling the roads.

Public-private partnerships (PPPs) are a revolution in public policy, with projects for everything from water service to airports springing up around the world. "You can get the efficiencies of the private sector," says Rob Atkinson, director of the Technology and New Economy Project at

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the Progressive Policy Institute. "But the key is to get a right deal set up with the right incentives for everyone." Unfortunately, many PPPs are poorly crafted, either scaring off investment with too many restrictions or, by incorporating too few, turning into corporate boondoggles.

No one is calling Virginia's PPTA a boondoggle, exactly, but it suffers from three serious problems. First, because companies have to find a way to make a profit, their proposals tend toward the grandiose. "STAR needs to be able to toll 81," says Laura Olsen of the urban planning nonprofit Coalition for Smarter Growth, "because it needs an income source. It's hard to toll for targeted improvements," such as shoulder widenings, because, in the public eye, they are too small to justify paying a toll.

Second, because proposals can be unsolicited, increasingly the decision on what and where to build is determined by private interest, rather than public need. "[I]t has moved from a process of determining the best financing and build[ing] alternatives for a consensus-driven project ... to a process that is advancing one alternative into the transportation decision-making process," concludes a 2004 report by the consultancy Fiscal Analytics. Third, exacerbating this trend is the lack of public input; while the Virginia Department of Transportation has taken steps to increase public involvement, the PPTA does not require it, and residents and local politicians have complained of being shut out of the I-81 planning process. This, in turn, has prevented the consideration of competing proposals, such as expanding Virginia's rail capacity.

These problems might not be so pressing had they not facilitated such a bad project. Segregating cars and trucks along I-81 does, to be fair, make a certain amount of sense. "Sharp variations in speed are one of the most significant contributors to traffic accidents, especially on interstate highways, and several factors make this acute on 81," including its high volume and mountainous terrain, says Paul Reagan, a spokesman for STAR. "Taken together, we believe these factors make Interstate 81 an ideal candidate for the separation of truck and passenger traffic."

But the plan's fatal flaw is that, to recoup its investment, STAR assumes a steady increase of truck traffic and a minimal amount of diversion onto state highways and other roads. Basic economics, however, proves otherwise. According to a study done for the state by the traffic consultant Reebie, the average cost of taking an alternate route around I-81 is $66; therefore, any toll above $66 can be expected to divert trucks. Indeed, according to a study by the American Trucking Associations (ATA), which opposes the plan, such tolls would boost traffic along U.S. 29, which runs east of I-81, by more than 865,000 trucks per year—a 273 percent increase. Such diversion, concludes an analysis by research firm ALK Technologies, would also deprive the state of $26 million annually in diesel fuel and registration fees, which it assesses on trucks traveling along interstates.

Beyond the financial question, there are safety concerns. While I-81 sees 160 crashes per 100 million vehicle miles of travel, that number is significantly lower than the statewide average of 277. Diverting more trucks to state highways, on the other hand, would greatly increase the risk of accidents. Many of Virginia's highways allow unlimited access, meaning they have intersections rather than on-ramps, which are safer. Many do not have the wide shoulders and lanes needed to handle heavy truck traffic. Then there's the environmental impact. The plan would add at least four lanes and massive interchanges along the length of the highway, doing tremendous damage to the Shenandoah Valley. As one dissenting member of the state's Commonwealth Transportation Board, which approved the plan in early 2004, said, "This project would make the Valley look the worst it has looked since Sheridan came through and burned everything."

Opposition to the plan runs from tiny town councils to Wal-Mart, which recently built a distribution center along the highway, but it has powerful allies. Young, a 32-year House veteran once called the "godfather of highway projects," sees separate truck-toll lanes as the wave of the future and has latched onto I-81 as a demonstration project. Young initially pushed for more than $800 million for the project in the latest highway bill. And, though he got only $141 million, STAR Solutions says it is enough to continue moving forward with the plan. Young has, in turn, received more than $150,000 in campaign donations from consortium members; nearly half of that came from consortium employees based in Virginia *for a race in Alaska*. (Young's office did not return a request for comment.) But even his critics say Young isn't trading cash for pork. "With a guy like Young, it's not that simple," says Hutchinson. "This is part of a national strategy and vision of supporting truck tolls. His legacy will be a network across the country." The I-81 plan is already being looked to as a model, with similar plans under consideration in Texas, California, and Indiana.

Young's "legacy" has received additional support from the state government in Richmond, which sees the plan as an easy way to address highway congestion. "Highway financing in the United States is approaching some significant watersheds," says Pierce Homer, Virginia's secretary of transportation, one of those being the need to find alternate means of funding construction, such as tolls and private investment. (Homer says an official decision on the plan will come after the completion of an environmental impact statement later this year.)

After checking out Cedar Creek, Hutchinson drove me to a bluff behind a Burger King just off I-81, near its intersection with Interstate 66. The highways themselves were invisible, hidden between hills; all we could see were lush green fields and forest. Things will be different, Hutchinson said, with the tollway plan. Merging two interstates will require additional ramps for each lane, at least eight in all. "It'll be a huge mixing bowl," he said, as big as a downtown Washington office building. It's hard to imagine anyone enjoying that view. Except Don Young. ■

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Michael Chertoff's risky plan.

Priority Threat

BY MARISA KATZ

IT MIGHT BE said that a politician hasn't truly arrived in Washington until an offhand remark becomes a p.r. disaster. Homeland Security Secretary Michael Chertoff recently celebrated his rite of passage after an ill-considered comment to the Associated Press. "The truth of the matter is, a fully loaded airplane with jet fuel, a commercial airliner, has the capacity to kill 3,000 people," he said. "A bomb in a subway car may kill 30 people. When you start to think about your priorities, you're going to think about making sure you don't have a catastrophic thing first."

Calls for Chertoff's head weren't long in coming. "These are some of the most appalling comments that I have heard coming from any government official in a long time," Senator Chuck Schumer exclaimed, calling for an apology and a retraction. "The responsibility of the federal government is to prevent terrorism in the homeland, wherever it occurs." The American Public Transportation Association chastised Chertoff in similarly outraged language: "To say that a terrorist attack on a subway is less important than an attack using a commercial airline is another example of how the federal government treats the millions of public transportation riders as second-class citizens when it comes to security," the group said in a statement. And Washington Metro Board Chairman Dana Kauffman noted that "[f]ully half of the peak period users of the Metro system are federal employees." Kauffman asked: "Is he saying to his own people, 'Good luck'?"

But the real problem with Chertoff's quote—and the risk-based strategy it was meant to illustrate—isn't that he has the audacity to prioritize some things over others. Homeland security spending, to date, has been motivated by a combination of political interests and knee-jerk reactions. It is to Chertoff's credit that he wants a more systematic approach. The problem is that, while classic risk assessment—which supplies quantitative answers to the questions: What can go wrong? What is the likelihood? And what are the consequences?—may be useful in preparing for natural disasters or nuclear power accidents, the approach has its limitations when applied to terrorism. The nature of terrorism is such that consequences are not so easy to define; besides deaths, injuries, and economic damage, it produces a psychological ripple effect. Additionally, scenarios of what can go wrong are not so easy to predict; the attack that was successful yesterday is not the same as the attack that will be attempted tomorrow. Moreover, would-be terrorists are watching, constantly adjusting their calculus based on moves we make—and don't make. If Chertoff is not careful, his risk-based strategy could actually put us at greater risk.

THE DEPARTMENT OF Homeland Security (DHS) has been a department with a mission—but no plan. Since its formation in January 2003, DHS has allocated antiterrorism funding according to a congressional formula that divides a full 40 percent equally among all states, leaving only 60 percent for discretionary outlays. In fiscal year 2004, California received less than $10 per capita in homeland security grants, while Wyoming received $40 per capita. The 9/11 Commission didn't hesitate to call a spade a spade: "Congress should not use this money as a pork barrel. ... [T]his issue is too important for politics as usual to prevail." (This year, Congress considered making the formula more favorable toward risk assessment, but the Senate—led by Susan Collins and Joe Lieberman—voted last month more or less to maintain the pork-barrel formula.) Where money has been targeted for specific purposes, DHS has been too preoccupied looking backward to think about how to best move ahead. As the 9/11 Commission noted: "Over 90 percent of the nation's $5.3 billion annual investment in the [Transportation Security Administration] goes to aviation—to fight the last war." A joint report by the Center for Strategic and International Studies and the Heritage Foundation criticized the department, under Secretary Tom Ridge, for taking an "in-box" approach, responding to each day's crises without developing long-term policy.

Enter Michael Chertoff. Formerly the head of the Justice Department's criminal division, Chertoff took over at DHS in February and set about trying to make protecting the homeland as sober an endeavor as prosecuting Arthur Andersen executives. In his first headline-worthy public address, last month, he said that, henceforth, the department will order its priorities based on risk. "[W]e must make tough choices about how to invest finite human and financial capital to attain the optimal state of preparedness," he said. The department will use three variables, corresponding to the three questions of classic risk assessment: vulnerability (What can go wrong?), threat (What is the likelihood?), and consequences. "DHS will concentrate first and foremost—most relentlessly—on addressing threats that pose catastrophic consequences," Chertoff said.

It should be fairly clear that trying to prevent a nuclear attack should top this list. Both George W. Bush and John Kerry cited nuclear terrorism as "the single most serious threat to the national security of the United States." The order of other priorities, however, is controversial. As much as we might like the idea of plugging numbers into a formula, trying to quantify vulnerability, threat, and consequences of various potential terrorist attacks may leave us with more questions than answers. "There has been a lot of thinking that, 'No problem, we can apply risk assessment to terrorism the same as we do to nuclear power accidents,' " says Vicki Bier, a risk analyst at the University of Wisconsin-Madison. "But, no, that doesn't necessarily work."

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One problem is how to define and measure consequences. Classic risk analysis typically considers the potential for death, injury, and economic costs. In congressional testimony earlier this year, Chertoff seemed to suggest that DHS would use the same approach. "You obviously look at possible direct loss of human life," he said. "You look at economic consequences. You know, what would blowing out a particular power grid do to the economy? You might look at other kinds of consequences that are indirect consequences in terms of illness or things of that sort." Adopting those indicators to assess the risk of terrorism makes sense to the extent that Al Qaeda has said it aims to kill Americans and disrupt our economy.

That said, terrorism is not just about murder and direct financial targeting. It's different than other kinds of attacks because it has particularly widespread psychological effects. "[T]errorists use violence for dramatic purpose: instilling fear in the target audience is often more important than the physical result," writes Jessica Stern, who interviewed militant religious extremists and their supporters for her book *Terror in the Name of God*. Such fear extends far beyond the direct victims of an attack. It can have a concrete, measurable economic impact. Stern told me: "A crash caused by negligence or incompetence impacts one airline; with terrorism, it affects the whole industry." Fear can also provoke amorphous lifestyle changes. People may be afraid to work in tall buildings or relax in public spaces. An attack on a Midwestern shopping mall, even if it resulted in only a few deaths, could have a disproportionate psychological impact compared with a more predictable attack resulting in a greater number of deaths, posits Clark Kent Ervin, director of the Homeland Security Initiative at the Aspen Institute. "It would say to every single American, no matter where you are, you are a possible target," he says.

DHS says it is also willing to consider psychological effects. Yet current risk-assessment models are not particularly helpful for that purpose. Only one paper in a special terrorism issue of the journal *Risk Analysis* even alluded to the need to address fear and its consequences. Likewise, discussion of psychological ripple effects has been largely missing from symposia sponsored by the DHS-funded Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California. Certainly, societal stress is hard to measure and would be difficult to incorporate into the risk-assessment equation. "You've got to have a more sophisticated model," says Paul Slovic, one of the few risk analysts who has begun to think about the problem. "Not that it can't be done, but, for some reason, the risk-assessment community hasn't done it." One explanation may be that risk assessment is set up to sideline emotions. Risk analysts see fear as an impediment to logical reasoning, so they may disregard it as a negative outcome in itself.

Another problem with applying risk assessment to terrorism is that the answer to "what can go wrong?" is limited only by the mind of the potential terrorist. In an October 2001 editorial, *The Washington Post* said the country was unprepared—for both September 11 and the anthrax attacks that followed—"in large part because of a failure of imagination." Chertoff's statement about an airplane versus a subway suggests a frighteningly similar lack of imagination. (If Al Qaeda had attacked a subway on September 11, the secretary might well have said something about how a packed subway train carries more passengers than a 747.) The damage from an attack can vary wildly depending on how it is carried out. As former counterterrorism czar Richard Clarke tried to show in the January/February *Atlantic*, conventional attacks, coordinated in the right way, can wreak as much or more havoc than an attack using more sophisticated weapons. Even if what's left of Al Qaeda is conserving its resources for large-scale attacks, there may be homegrown groups that aren't likely to get their hands on a weapon of mass destruction but can figure out how to carry out a suicide bombing.

Yet a further problem with risk-based counterterrorism is that terrorists, as opposed to forces of nature or machines, can adapt. We can deter certain terrorist attacks with certain precautions. A planned attack on the Brooklyn Bridge, for instance, was reportedly aborted after Al Qaeda determined that the facility was too heavily secured. But the corollary is that turning attention away from other vulnerabilities, particularly in a public manner, as Chertoff did when he nonchalantly dismissed the risk to subways, flags the attention of potential terrorists. It's like handing corporate executives a volume of tax law with all the loopholes highlighted. They may figure it out anyway, but you've just made it easier—and more tempting. "You are raising the risk of smaller attacks by making the big ones more difficult," says Bier. The result, she says, can be a situation like in Israel, where successful attacks on big targets—the Knesset, tourist hotels—are rare, but attacks on pizza parlors and buses are common. The challenge is to realize what additional stresses you create when you deflect risk from one target to another.

This is not to say that DHS should abandon the idea of risk-based prioritization. Rather, there are ways the department could modify the approach to make it more applicable to counterterrorism. DHS's definition of consequences must include psychological impact as well as deaths, injuries, and economic damage. And, because psychological impact is difficult to quantify, it should be considered qualitatively, in parallel with risk analysis. The department should also push its imagination further in terms of predicting possible scenarios. And, finally, while DHS prepares for low-probability catastrophic attacks, it shouldn't neglect more probable events with potentially significant, if not catastrophic, consequences. If better adapted for counterterrorism, risk assessment would be more effective than the politicized and ad hoc spending that has characterized homeland security up to now. Otherwise, Chertoff and his department may face problems much bigger than public relations. ■

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Belfast Dispatch

Separate Peace

BY RON DEPASQUALE

GERRY ADAMS BEAMED triumphantly at a news conference last month after the Irish Republican Army (IRA) announced that it would finally surrender its weapons. The fight for a united, independent Ireland has not ended, but it has entered a new, peaceful stage, said Adams, leader of Sinn Fein, the IRA's political ally. "There is a time to resist, to stand up and to confront the enemy by arms if necessary," he said. "There is also a time to engage." British Prime Minister Tony Blair and Irish Prime Minister Bertie Ahern, who have frantically tried to keep the peace process alive, rejoiced at the news of the IRA's unilateral move, calling it "momentous and historic" in a joint statement.

But this optimism is misplaced. Yes, the IRA's long war is over, and the number of British troops in Northern Ireland will be cut to the lowest level since the conflict erupted in 1969. Ulster, however, remains far from normal and stable. Protestant unionists don't believe the IRA will disarm, now or ever, and are threatening to boycott the peace process in protest of the British demilitarization plans. Ian Paisley, the fiery preacher who leads the hard-line Democratic Unionists, refuses to negotiate with Sinn Fein and has called Adams a "terrorist."

It is clear that the Good Friday Agreement—which created a Northern Ireland government in which Catholics and Protestants would share power and which the world assumed had finally solved the Ulster problem—has failed, in part because each side believed that the agreement meant something other than it did. With the increasingly powerful hard-line parties deadlocked, the middle ground has disintegrated. And, as a result, Northern Ireland's Protestants and Catholics are further apart today than ever.

ON THE STREETS of Belfast and Dublin, the IRA's announced disarmament was greeted with none of the joyous relief that met the Good Friday accord in 1998. Here, everyone knows that, even if the IRA does finally disarm, the British will need to keep running a feverishly polarized statelet that, left to its own vengeful politicians, would be completely dysfunctional.

Northern Ireland's voters have not only supported hard-line parties in growing numbers, helping to create a political stalemate, but physical and cultural divisions between the two sides have hardened, too. Voluntary segregation has continued, as Protestants cluster along the eastern coast, leaving the western backcountry to Catholics. Belfast and Londonderry residents still move across town to live among their own. The price of peace, paradoxically, is a divided province, enflamed by the same ancient tribal passions that led to the decades of bloody strife known as "the Troubles."

The parties that signed up for the Good Friday Agreement—the two moderate parties and Sinn Fein—faced the daunting task of getting their supporters to vote for it. Republicans who had supported the armed struggle for a united Ireland had to be assured that they weren't surrendering. And Protestants who loathed Sinn Fein had to be convinced of the need for reconciliation. Both communities were led—some would say dishonestly—to expect different outcomes. "The deal was sold to two rival sides on different terms," says Richard English, a professor of politics at Queen's University of Belfast. "To keep the republicans on board, they were told that this could be a transition to a united Ireland, just the next stage in the struggle." And Protestant leaders were told that, "as far as the British were concerned, this would stop a united Ireland from ever happening. Now there's a lack of trust on both sides, and that's why we have this instability."

The crucial question of the IRA disarming was finessed. That left Protestants believing it would happen and Catholics believing it wouldn't. Nevertheless, prisoners were released and all-Ireland bodies were established, both cherished republican goals. The Royal Ulster Constabulary, a pillar of British unionist pride, was replaced by a new police service, half of whose recruits must be Catholic. And Sinn Fein was allowed into a power-sharing government that collapsed in 2002. All of these developments left Protestants seething, and, without complete IRA disarmament, doomed moderate protestant leader David Trimble. The Nobel Peace laureate and his Ulster Unionists were obliterated in the May elections for U.K. Parliament, losing all but one seat.

A new deal to restore power-sharing fell apart in December, after which Northern Ireland began sliding back in time. Within weeks, the IRA was blamed for a spectacular $50 million bank robbery, and Belfast Catholic Robert McCartney was brutally killed outside a pub by IRA toughs while defending a friend in a fight. Old sectarian embers were stoked throughout the ugly election campaign for Parliament. Paisley's Democratic Unionists, in a crowded field, captured a stunning nine of Northern Ireland's 18 seats at Westminster.

NOW, WITH ADAMS saying that the IRA's disarmament declaration has removed Paisley's "excuse" to avoid negotiations, and with Paisley still calling Sinn Fein the "leaders of murderers and thieves," the two sides remain at an impasse. Ulster's never-ending debate over a constitutional settlement consumes so much political oxygen that the Troubles' legacy is mostly ignored. Nobody talks about tearing down Belfast's "peace walls," which separate poor Protestant and Catholic

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neighborhoods. In Londonderry, two Protestant schools will soon move from the Catholic to the Protestant side of town, solidifying the city's segregation. A Queen's University of Belfast study found an alarming number of six-year-olds spouting sectarian slurs.

The police service's quota system has doubled the percentage of Catholic police over the last four years to 17 percent. But the loyalist Orange Order, a Protestant organization detested by Catholics for its summer marches through their neighborhoods, has called for an end to this "unfair" system. The force's Protestant dominance, along with lingering accusations of collusion with loyalist paramilitaries during the Troubles, keeps many Catholics from turning to the police. And so IRA men, who have been ordered to cease all activities, feel free to roam Catholic neighborhoods as vigilantes, doling out punishment beatings and knee-cappings. Sinn Fein still rejects the police service, claiming that it is unaccountable and should be administered from Belfast, not London.

Northern Ireland's widespread poverty and unemployment—some districts of Belfast have unemployment levels of nearly 90 percent—breed extremism. And, without a real entrepreneurial class, there's no one to force politicians to address the economy. As one local columnist put it, Northern Ireland has a Second World economy that relies almost entirely on government subsidies and jobs, and Third World politics that thrive on tribalism.

The bleak outlook is that Paisley's Democratic Unionists and Sinn Fein are content with a stalemate—the fear of Sinn Fein returning to government galvanizes loyalists as much as Paisley's fire and brimstone incites republicans, killing any hope for compromise. Even if the IRA does lay down its arms and becomes a veterans' group, there's no telling how long it would take for unionists to agree to share power again with Sinn Fein. If each side can't trust the other, and the hard-line parties see discontent as the path to power, then there's little way for this divided society to move forward together. ■

Why the Bush administration defends Guantánamo.

Island Mentality

BY SPENCER ACKERMAN

GUANTÁNAMO BAY, CUBA

THE DETAINEE, BY all appearances, is resigned to his fate. Throughout his hearing, he remains stoic, not once even shifting in his chair, let alone jostling the restraints that bind his wrists and ankles. His tan jumpsuit indicates his compliance with the camp guards. (The infamous orange jumpsuits are reserved for "problem" detainees.) When the panel of American military officers asks if he wants to submit additional statements on his behalf, he declines. Despite a statistical glimmer of hope—of over 160 detainees who've gone through this process, four have been designated for release—he seems to know what's in store for him: another year in Guantánamo Bay.

Maybe that's the right outcome. According to a briefing I was given, the detainee earned a grisly nickname—suitable for a comic-book villain—fighting with Taliban affiliates in his native Afghanistan. (In order to learn that, I had to sign a contract preventing me from reporting what that nickname is.) Yet the counts against him fall decidedly short of meriting the "worst of the worst" designation that Donald Rumsfeld once gave Guantánamo's inmate population. The military, citing information from "many agencies," says that he is suspected of "involvement in rocket attacks" on U.S. forces in Afghanistan, as well as the manufacture of false visas; he was in charge of investigation and interrogations for the Taliban's Eighth Division in a section of the eastern Paktia province; and he has been affiliated with the Osama bin Laden–connected jihadist organization run by warlord Gulbuddin Hekmatyar. A bad guy he may be. Khalid Shaikh Mohammed he isn't.

"I admit it," he says through a civilian interpreter. "I worked for the Taliban, but for a construction project. I wasn't the boss or foreman, just a simple worker." For the first time, the detainee starts to get agitated. He doesn't think the officer advising him has clearly instructed the three-officer panel about seemingly exculpatory information. After several minutes of questioning from the panel—did he know anyone who attacked U.S. forces? (No.) Did he receive weapons training at a refugee camp in Pakistan? (No.)—he begins to plead. "You didn't tell me what kind of scars I have. If you think they're war injuries, no," he says, in an apparent attempt to convince the panel that he was not wounded while trying to kill Americans. An officer assures him, "We understand the injuries you have are not from war." By the time the unclassified portion of the hearing closes, the detainee is silent and still, once again acquiescent to another year of probable detention—either at Guantánamo or, under a deal announced last week to send detainees to prisons in their own countries, in Afghanistan.

The outcome of the hearing was probably not in question—in large part because it was not a legal proceeding. The officer advising the detainee is not a lawyer. His job

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is not to challenge the government's case for continued detention, but rather to help the detainee "understand" the proceedings. The hearing doesn't ascertain the detainee's guilt or innocence, but rather the threat he poses to the United States, as well as what intelligence value he possesses. (That consideration is undertaken in a classified hearing.) What I saw, however, made it difficult to escape the conclusion that the detainee's guilt is largely taken for granted. Justice, conventionally understood, is not a priority at Guantánamo. But that doesn't seem to bother the officers in charge—after all, they say, the process, known as an Administrative Review Board, has been created on the fly. "Quite frankly," shrugs Captain Eric Kaniut, a Pentagon official involved with the review process, "it's unprecedented."

That's a common sentiment among Kaniut's colleagues. "We freely admit we're learning this as we go along," Paul W. Butler, a Rumsfeld adviser and an architect of Guantánamo detentions, told *The Washington Post* last year. Indeed, that rationale is used to justify the perpetuation of numerous contradictory stances. For example, the Bush administration has contended simultaneously that Guantánamo Bay is foreign soil (in order to deprive its inmates of access to U.S. courts) and that it "is included within the definition of the special maritime and territorial jurisdiction of the United States" (in order to circumvent the federal Torture Statute, which governs overseas conduct). And, as described in a recent Pentagon report on interrogations at Guantánamo Bay, "degrading and abusive treatment" did not, as General Bantz Craddock of Southern Command put it in congressional testimony last month, "violat[e] U.S. law or policy"—despite relentless assurances from the White House that policy dictates that enemy combatants at Guantánamo be treated humanely.

Little wonder, then, that American liberals have joined the outcry against Guantánamo previously reserved largely for foreigners. *New York Times* columnist Thomas L. Friedman has implored the administration to "just shut it down." But Friedman's call for shuttering Guantánamo was based on neither the "deeply immoral" abuse at the prison nor the policies that drove it—but instead on "how corrosive Guantánamo has become for America's standing abroad," undermining U.S. efforts to win Muslim hearts and minds. Likewise, Senator Joseph Biden, one of the leading Democratic foreign policy voices, told ABC's George Stephanopoulos in June, "[T]his has become the greatest propaganda tool that exists for the recruiting of terrorists around the world. I think more Americans are in jeopardy as a consequence of the perception that exists worldwide with [Guantánamo's] existence than if there were no Gitmo."

But Guantánamo is more than just an image problem; it is a moral, legal, and strategic one as well. Indefinite detention and the embrace of torture as policy are betrayals of fundamental American principles. Sometimes in war, moral tradeoffs are necessary, but that's not the case at Gitmo, which yields intelligence of little value and where suspect interrogation techniques threaten the legal prosecution of terrorist suspects—an increasing problem as the war on terrorism morphs into more of a law-enforcement struggle. Simply shutting down the facility would do nothing to address these issues. After all, Guantánamo may be the flagship of the post–September 11 enemy-combatant detention apparatus, but the system extends to Bagram Air Base in Afghanistan, the Indian Ocean island of Diego Garcia, and other far-flung corners of the globe that the administration doesn't disclose. The only way to "solve" Guantánamo is to introduce human rights protections and due process for its inmates—and, more importantly, to abandon the principle that underlies the Bush administration's entire post–September 11 U.S. detention system: that the only way to win the war on terrorism is to grant nearly limitless authority to the president.

THE INTERROGATION CHAMBER in Camp Five, Guantánamo's recently constructed high-tech prison facility—Camp Six is due next year—is as austere as it is intimidating. Inside a triangular cinderblock room with its frosted-glass window blocked off by a translucent sheet of paper is a small, gray table with two folding chairs on one side. Across the table, as the room converges to its point, is a third chair, which is handcuffed to a metal bar in a dug-out section of the floor. The detainee sits there. On the wall, behind where the interrogators sit, is a red button marked DURESS to alert guards of an emergency.

How much "duress" a detainee endures in the interrogation room is a matter of both confusion and controversy. FBI interrogators who visited Guantánamo in 2003 and 2004 informed their superiors that, "on a couple of occasions," they found detainees "chained hand and foot in a fetal position to the floor"—that is, secured to the small bar I saw—"with no chair, food or water. Most times they had urinated or defecated on themselves, and had been left there for 18-24 hours or more." The air conditioning was set to make interrogation rooms so cold that the detainee was violently shaking or so "unbearably hot" that the detainee, who endured the temperature for hours, was practically unconscious and had "apparently been literally pulling his own hair out throughout the night." Detainees had been blasted with "extremely loud" songs by Lil' Kim and Eminem, as well as a Meow Mix cat food commercial, for extended periods. In June, *Time* magazine published excerpts from the interrogation log of the suspected would-be twentieth September 11 hijacker, Mohammed Al Qatani, which states, among other things, that Qatani's questioners injected him with massive amounts of fluids and forced him to urinate on himself.

In response to the public disclosure of the FBI accounts—not the accounts themselves—the Pentagon assigned Generals Randall Schmidt and John Furlow to investigate Guantánamo interrogations. Their report, released last month, is euphemistic and disingenuous. Schmidt and Furlow maintain that they found "no evidence of torture or in-

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humane treatment," while simultaneously confirming many of the FBI descriptions. Their most startling conclusion is that nearly every incident they investigated was "authorized" by Pentagon guidelines—guidelines Donald Rumsfeld approved between October 2002 and April 2003. Sometimes, to reach this conclusion, Schmidt and Furlow shoehorn in new definitions to the Army's field manual on interrogations, which complies with the Geneva Conventions. For instance, Schmidt and Furlow consider sexual coercion by female interrogators—including the smearing of fake menstrual blood on a detainee, who subsequently "threw himself on the floor and started banging his head"—to fall within the boundaries of the manual's "Futility" technique. (One veteran of an Army intelligence unit fighting the war on terrorism told me sexual manipulation is decidedly not "Futility.") Qatani, Schmidt and Furlow found, was the subject of a "Special Interrogation Plan." That meant he endured, among other things, high-blast air conditioning that slowed his heartbeat until he required medical attention; was interrogated for 18 to 20 hours daily for 48 days out of a 54-day stretch; was straddled by a female interrogator; and was led on a leash and forced "to perform a series of dog tricks." As their report states: "[E]very technique employed against [Qatani] was legally permissible under the existing guidance."

That is exactly what military lawyers, known as judge advocates general (JAGs), feared would happen when the Bush administration relaxed interrogation guidelines for the Guantánamo facility. When they learned, in 2003, what Rumsfeld was considering for detainees, they worried about high-level authorization of war crimes. "Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful," Deputy Air Force JAG Jack L. Rives warned that February, according to a memo declassified two weeks ago. The Navy JAG, Rear Admiral Michael F. Lohr, bluntly called the techniques "inconsistent with our most fundamental values."

BUT THE PROBLEM of Guantánamo is not simply a problem of values—it's also a problem of the camp's actual utility in fighting terrorism. The biggest evasion in Schmidt and Furlow's report—and the most significant for the administration's prosecution of the war on terrorism—is their face-value acceptance of the claim that Qatani's "degrading and abusive" interrogation "ultimately provided extremely valuable intelligence." They do not elaborate. Indeed, no Pentagon investigation has challenged this central contention of the administration: that Guantánamo detainees provide invaluable intelligence about Al Qaeda—intelligence that requires, in many cases, the brutal techniques approved by Rumsfeld—despite how dubious it is.

Guantánamo Bay officials didn't grant my repeated requests for interviews with either the Joint Task Force commander, Brigadier General Jay Hood, or his deputy for intelligence operations, Steve Rodriguez, a civilian Pentagon official. Nor was I permitted to speak with any Guantánamo interrogator. As a result, it's difficult to ascertain exactly what intelligence value Guantánamo inmates possess. But there are several reasons not to believe the Pentagon's claims. For one, despite the intimations of some on the right—namely Senator Jeff Sessions of Alabama—professional American interrogators don't consider abuse a useful tool for extracting trustworthy information. It's difficult to take seriously the idea that a detainee exposed to suffocating heat nearly to the point of unconsciousness or smeared with what he believed was menstrual blood produced information of any merit. Not surprisingly, FBI interrogators don't take it seriously. One Bureau official caustically e-mailed his superior in December 2003, "These tactics have produced no intelligence of a threat neutralization nature to date." In fact, an unconventional-war expert at the Naval Postgraduate School told the *Post* that the "best actionable intelligence in the whole war" came not from Guantánamo interrogations but from captured e-mails sent by Khalid Shaikh Mohammed.

Then there's the fact that there may not be very much useful intelligence among the camp's inmates to obtain. Despite the mantra that Guantánamo houses "the worst of the worst," Qatani, the thwarted hijacker, is the highest-ranking Al Qaeda detainee acknowledged to be at Camp Delta. Senior Al Qaeda captives—such as Khalid Shaikh Mohammed, the mastermind of September 11, or terrorist-recruiting chief Abu Zubaydah—are held at undisclosed locations across the U.S. detention apparatus. What's left are largely what one former White House counterterrorism official dubs "the ash-and-trash jihadi picked up in Afghanistan," as opposed to the "honest-to-God, card-carrying members of Al Qaeda—operatives who are worth a shit." Many detainees picked up in Afghanistan in the first year after September 11, 2001, and taken to Guantánamo were initially captured by Northern Alliance fighters looking to settle scores and collect rewards. Indeed, Rodriguez told *The New Yorker*'s Jane Mayer that only about one-quarter of Guantánamo's approximately 520 detainees possess any intelligence value for him.

What those 130 or so inmates have to offer, however, is still questionable. Most of Guantánamo's population has been in the camp for its entire three-and-a-half-year existence, and, according to Kaniut, only about ten detainees have arrived in the past year. "Obviously," says a recently retired senior intelligence official with counterterrorism experience, "the longer he's there, the less he has to tell you in terms of fresh actionable stuff. After a certain time, it becomes historic research data." That's not to say *that* information can't be useful. As the former White House official explains, the detainees might still be able to reveal "how do people interact, how do they communicate, what ethnic group will work with another ethnic group, where are the fault lines within the organization ... pieces of the jihadi and Sunni extremism jigsaw puzzle."

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But, as the former official cautions, even those pieces lose their worth after awhile. And that's because the jigsaw puzzle is changing. Simply put, Al Qaeda in 2005—as both a terrorist network and a broader jihadist movement—looks very little like Al Qaeda in 2002. Most Guantánamo detainees were captured on the Afghan battlefield. Yet Al Qaeda's center of gravity is increasingly moving out of Afghanistan and Central Asia: In a series of classified reports this year, the CIA has warned that the next wave of the global jihadist movement lies with new recruits who travel to Iraq to gain on-the-job training killing U.S. forces and Iraqi civilians before returning to their homes in the Middle East, North Africa, and, increasingly, Europe—to say nothing of those who, as is likely with some of the culprits of last month's thwarted London attacks, taught themselves terrorism in the relative isolation of the British midlands. And Pentagon officials have testified to Congress that jihadists captured in Iraq *can't* be sent to Guantánamo Bay, because Iraqis must be treated in compliance with the Geneva Conventions. Guantánamo's population, in other words, can tell us next to nothing about this "Class of '05" problem—the future of Al Qaeda.

Al Qaeda's increasing European profile suggests that Guantánamo is providing little useful intelligence. But Guantánamo and the rest of the U.S. detention apparatus are also actually undermining prosecution of the war on terrorism, because Europe won't accept evidence procured via torture or duress. In January, for example, British officials arrested Moazzam Begg, Feroz Abbasi, Martin Mubanga, and Richard Belmar—British nationals who had been recently released after being detained for three years at Guantánamo—immediately after they stepped off a plane at Heathrow Airport. As London's then–police chief, Sir John Stevens, explained, information American officials had shared with their British counterparts indicated that the men were truly dangerous. "There was no other course of action—we would not have been doing our duty—if we had not arrested them and questioned them," Stevens said. There was only one problem: No information from Guantánamo Bay was admissible in British court, because it had been obtained under dubious legal circumstances. Despite the palpable worries British authorities had about them, all four walked out of a police station the next day, free men.

The issue is not one of European weakness in fighting terrorism, as conservatives often suggest: Investigating judges like Spain's Baltasar Garzón and France's Jean-Louis Bruguière have been relentless in hunting down Al Qaeda affiliates in their countries. Rather, European counterterrorist officials, politicians, and publics simply will not accept the Bush administration's legal contentions about abusive interrogation and indefinite detention, and they won't change their judicial systems to accommodate Washington. And, since Al Qaeda's evolution means that it is European officials who will increasingly have to combat the jihadists, this transatlantic disconnect runs the risk of allowing probable terrorists like the London four to go free.

In some cases, as with the recent trials in Spain of Al Qaeda suspects, the United States has resisted turning over information that could assist European prosecutions for fear of revealing sources and methods. In others, even when the United States has cooperated, the detention apparatus it has set up has undermined the usability of its evidence. Consider the case of Mounir Motassadeq. Motassadeq, who signed Mohammed Atta's will and had power of attorney over hijacker Marwan Al Shehhi's bank account, was convicted in Germany in 2003 of 3,000 counts of accessory to murder for his complicity in the September 11 plot. But an appeals court overturned his conviction in 2004, and the case is now snarled, in large part because of seemingly endless challenges over the admissibility of evidence obtained under probable duress and torture.

In short, Guantánamo opens the door for terrorists to go free amid the legal crossfire over the admissibility of the information they provide—a growing problem as the law enforcement side of the war on terrorism becomes increasingly important. Yet the Bush administration shows no sign of jettisoning abusive interrogation or indefinite detention in recognition. And that's because the administration has elevated these policies to the level of principle.

Guantánamo officials eagerly told me about a conversation they had with another journalist who recently visited Camp Delta, Al Jazeera correspondent Mohammed Yamlahi Alami. Alami was prepared to entertain the premise that there are indeed terrorists at Guantánamo, something the officials considered a p.r. coup. But Alami then said the detainees need to "have their day in court"—which would be a tremendous departure from current policy, under which only four out of 520 detainees at Guantánamo are facing charges before the administration's legally controversial military commissions and under which the administration reserves the right to detain the rest in perpetuity. "Bottom line," Alami told an on-base publication, "is try these guys, show me the evidence, and hang them if they deserve to die. If not, let them go." It's hard to argue with that. But the administration does. Furiously.

For nearly four years, the White House has claimed the ability to hold enemy combatants indefinitely, without any guaranteed trial. It has argued both that the Guantánamo detentions are justifiable given that the fight against terrorism is a war, and that the war on terrorism is "a different kind of war" that requires, as Bush said in 2002, "new thinking in the law of war." Unfortunately, that "new thinking" has been a euphemism for the replacement of law with policy: policy that, among other things, made application of the Geneva Conventions contingent on "military necessity"; allowed for abusive interrogation; and claimed the right to hold enemy combatants in perpetuity. And, even more unfortunately, the White House has held to those

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policies even as it has become clear that, as in the case of Guantánamo, they are woefully counterproductive.

The Bush administration has adopted this radical approach because it is defending the idea that the Constitution empowers the president to conduct war exclusively on his terms. A series of memos written by the Justice Department's Office of Legal Counsel in 2002 effectively maintained that any law restricting the president's commander-in-chief authority is presumptively unconstitutional. (When GOP Senator Lindsey Graham recently quoted to Pentagon lawyer Daniel Dell'Orto the inconvenient section of Article I, Section 8, granting Congress the authority to "make rules concerning captures on land and water," he farcically replied, "I'd have to take a look at that particular constitutional provision.") Last month, when some GOP senators tried to bar "cruel, inhuman, or degrading treatment" of detainees in an amendment to the 2006 defense bill, the White House sent them a letter threatening to veto any attempt to "restrict the President's authority to protect Americans effectively from terrorist attack and bring terrorists to justice," and Vice President Dick Cheney warned senators against usurping executive power. For good measure, the White House instructed the Senate leadership to pull the entire half-trillion-dollar bill from the floor, lest the offending language within it pass.

It would not be difficult to solve the indefinite-detention problem: Pass a law allowing for a circumscribed period in which officials interrogate the detainee and accumulate evidence before bringing charges against him. This is how it works in countries like Great Britain and Israel, both mature democracies that have fought terrorist threats militarily and legally for decades. But the administration has strongly resisted any move to introduce legal protections to Guantánamo Bay. When the Supreme Court ruled last year that Guantánamo inmates could bring habeas corpus challenges to their detentions in federal court—settling the question of whether detainees had recourse to the U.S. legal system—the Justice Department adopted the bewildering position that, once detainees file their claims, they possess no further procedural or substantive legal rights at all, an absurdity to which the administration is sticking.

That's not all. Before a Senate panel last month, Dell'Orto argued that Congress shouldn't create a statutory definition of the term "enemy combatant," since the administration needs "flexibility in the terminology in order to ... address the changing circumstances of the type of conflicts in which we are engaged and will be engaged." The very next week, before an appellate court panel, Solicitor General Paul Clement, arguing for the continued detention without charge of American citizen and suspected Al Qaeda terrorist José Padilla, explained what the administration has in mind for its "flexible" definition. Federal appellate Judge J. Michael Luttig, a Bush appointee, noted that, since Padilla was arrested not on an Afghan battlefield but at a Chicago airport, the administration's discretion to detain an American citizen ought to be fettered, "unless you're prepared to boldly say the United States is a battlefield in the war on terror." Clement immediately replied, "I can say that, and I can say it boldly." In essence, the administration is claiming authority to detain anyone, captured anywhere, based not on any criteria enacted by law but rather at the discretion of policy, and to hold that individual indefinitely.

That position—that the war on terrorism requires executive latitude at odds with hundreds of years of law—has animated every single step of the administration's approach to the war. It's why Bush has kept NATO allies at arm's length while simultaneously trumpeting their absolute necessity to the defeat of Al Qaeda. It's why he didn't just oppose the creation of an independent 9/11 Commission to investigate the history of counterterrorism policy, he also argued it would be an unacceptable burden on his prosecution of the war. And it's why he's blasted any move by the courts to exercise oversight of the war as a dangerous judicial overreach: When a district court judge last year challenged the constitutionality of the administration's military commissions for the trial of enemy combatants, the Justice Department "vigorously disagree[d]," as a spokesman put it, and contested the ruling until the commissions were reinstated on appeal last month. For the administration, its expansion of executive power is synonymous with victory in the war—regardless of the real-world costs to the war effort.

THE APPEAL OF jettisoning established law in favor of broad executive prerogative during wartime, and especially during asymmetric or unconventional wars, is nothing new. "There is a very strong temptation in dealing both with terrorism and with guerrilla actions for government forces to act outside the law, the excuses being that the processes of law are too cumbersome, that the normal safeguards in the law for the individual are not designed for an insurgency, and that a terrorist deserves to be treated as an outlaw anyway," Sir Robert G. K. Thompson, the architect of the successful British counterinsurgency in Malaya and adviser to the U.S. command in Vietnam, warned in the mid-'60s. "Not only is this morally wrong, but, over a period, it will create more practical difficulties for a government than it solves."

Indeed, the real danger—to the war on terrorism, American values, and the rule of law—is unchecked executive authority. There would be nothing wrong with keeping detainees at Camp Delta and elsewhere if they were provided legal protection and their interrogations were restricted to the Geneva Conventions–compliant Army Field Manual on interrogations. Nor would there be any harm to national security. Senator Graham, a former Air Force JAG, stated two weeks ago that, when he recently visited Guantánamo, he asked "all the interrogators there: Is there anything lacking in the Army Field Manual that would inhibit your ability to get good intelligence? And they said no. I asked: Could you live with the Army Field Manual as your guide and do your job? They said yes." Whether the Bush administration can live within those rules is another matter. ■

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BOOKS & THE ARTS

STANLEY KAUFFMANN ON FILMS

Uncovered and Covered

NOW, WITH A HINT OF INevitability, there arrives a documentary about a dirty joke—**THE ARISTOCRATS**, made by Paul Provenza and Penn Jillette. It seems to fit the times. In this film a lot of nightclub comics give us their versions of a joke, the same joke, and their comments on it. Here is the frame of the joke. A performer goes to a talent agent's office to get his act booked. The agent asks him to describe the act, and the man details a series of actions that are performed by himself and his wife and children and dog involving every kind of sexual bizarrerie and excremental wallow. The agent then asks the name of the act, and the man says, "The Aristocrats."

THE ARISTOCRATS
(ThinkFilm)

50 DESIGNERS/ 50 COSTUMES: CONCEPT TO CHARACTER
(Academy of Motion Picture Arts and Sciences)

Only a few of the comics have told the joke on stage at one time or another, but they all admire it as a bulwark of the profession. More, each is proud of his or her personal riff on it. Only the opening and the punch line are fixed: the details of the act are up to the comic telling the joke. We hear a number of versions. I can't say that one is filthier than the next: they are all right in there, competing. What fascinates is, first, that these comics treat the joke the way jazz musicians might treat a theme that each of them plays differently; and, second, that the passage of this joke from one comic to another is like the bonding of a profession. (Incidentally, Robin Williams is on hand and, besides his remarks on the main theme, tells two quite different jokes that are the funniest we hear.)

Most certainly this film, which makes the term "vulgar" seem weak, is not a sign of social decay. A current of obscenity in the arts has coursed through all of Western civilization. Aristophanes himself tells us he is not the first: *The Frogs* (405 B.C.E.) begins with a slave and a master coming out on stage and the slave saying, "Boss, would you mind if I started / With a good old gag that always gets a laugh?" The gag is scatological. The Atellan farces of Rome, the Commedia dell'Arte—all provided holidays from propriety, and no account of obscenity could omit Chaucer and Shakespeare. Even T. S. Eliot, one of the last century's most spiritually concerned poets, went through an obscene phase during which he encountered an editor who declined to publish words "ending in -Uck, -Unt, and -Ugger." I couldn't help wondering what Eliot would have thought of *The Aristocrats*.

I also couldn't help wondering what the reaction to this film might be a century from now. From Aristophanes to Provenza and Jillette, obscenity has been an alternative—proper society glimpsed with its pants down. Nowadays pants are not so consistently up. *The Aristocrats* is only an extreme instance of material that is now fairly commonplace. A hundred years from now, will they yawn at this film—or burn it as an instance of what society has outgrown?

"Film costumes serve two equal purposes: to support the narrative by creating memorable characters, and to provide balance within the frame by using color, texture, and silhouette.... All clothing used in a fictional film is considered costume, enriched by a magnified theatrical scale, through which a heightened reality is utilized to reveal the nature of each character." These statements, not novel but often forgotten by audiences, are from the introduction to **50 DESIGNERS, 50 COSTUMES: CONCEPT TO CHARACTER** (124 pp., $24.95), the catalogue of an exhibition held last year in Beverly Hills at the Gallery of the Academy of Motion Picture Arts and Sciences. Each of the fifty designers gets two pages: the left side for background on the costume that he or she has chosen, the right side for a photograph of the costume along with the original design. The book, a large paperbound (distributed by the University of California Press), is attractive and enlightening.

Naturally the designs that first catch the eye are historical or fantasy costumes—for instance, the beguiling ball gown done for Catherine Zeta-Jones in *The Mask of Zorro*. For the designer Graciela Mazon, it was more than beguiling. The character, Elena, is an isolated woman who is going to meet the young Zorro at a ball. "They have a passionate dance," says Mazon, "a mixture of tango and traditional music, and it was possible to create some fire between them with this vibrant dress."

Historical costume sometimes strives for verity rather than glamour. In *Cold Mountain*, Nicole Kidman played a genteel young woman fallen on hard times. Says the designer Ann Roth: "Her clothes deteriorate and, for instance, a beautifully quilted taffeta petticoat originally worn over the hoop skirt to soften the effect of bones, now becomes [which we see] a warm skirt worn over a manure-spotted pair of her father's trousers."

A chief value of the book is what it tells us about non-historical, non-fantastic costume design—just clothes for people, which, as the introduction notes, become costumes when they are in a film. An instance is the outfit that Dustin Hoffman wore as a contemporary lawyer in *Runaway Jury*. The designer Abigail Murray decided not to put Hoffman in a conventional suit: "I chose to put Dustin in a jacket, vest, pants, shirt, all totally mismatched but all in the same warm tones.... It gave him a look that made him 'court presentable.'" The photo appeals.

An especially interesting commentary comes from Albert Wolsky, who did the costumes for *Road to Perdition*, a picture set in the 1930s. "This particular Depression period had thick and heavy coarse fabrics," he writes. "Nothing looked or felt right or moved the way it should."

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Wolsky had fabrics made. "Samples would go back and forth until we could arrive at the right weight, weave and color.... Everything that Tom Hanks wore was woven for him." The facing photo of Hanks in his long overcoat makes us grateful for Wolsky's care.

I doubt that many viewers go to films in order to judge the costumes, but as long as we're there, we might as well appreciate the good ones. We might also remember that costumes are usually extensions of the director's concept of the film. In 1964 I spent a day with Federico Fellini in Rome while he was shooting *Juliet of the Spirits*. At the end of the day I thanked him, and he said, "Why don't you go to see the genius who makes my pictures possible?" I asked who that person might be. Fellini said, "Piero Gherardi." Gherardi was the designer, a longtime colleague of Fellini's. He was out of town at the moment, and by the time I got back to Rome he had died. But I never see a Fellini film, which happens fairly often, without thinking of what the director said about his designer. ■

Jerry Coyne

The Faith That Dare Not Speak Its Name

The case against intelligent design.

I.

EXACTLY EIGHTY YEARS AFTER the Scopes "monkey trial" in Dayton, Tennessee, history is about to repeat itself. In a courtroom in Harrisburg, Pennsylvania in late September, scientists and creationists will square off about whether and how high school students in Dover, Pennsylvania will learn about biological evolution. One would have assumed that these battles were over, but that is to underestimate the fury (and the ingenuity) of creationists scorned.

The Scopes trial of our day—*Kitzmiller, et al* v. *Dover Area School District et al*—began innocuously. In the spring of 2004, the district's textbook review committee recommended that a new commercial text replace the outdated biology book. At a school board meeting in June, William Buckingham, the chair of the board's curriculum committee, complained that the proposed replacement book was "laced with Darwinism." After challenging the audience to trace its roots back to a monkey, he suggested that a more suitable textbook would include biblical theories of creation. When asked whether this might offend those of other faiths, Buckingham replied, "This country wasn't founded on Muslim beliefs or evolution. This country was founded on Christianity and our students should be taught as such." Defending his views a week later, Buckingham reportedly pleaded: "Two thousand years ago, someone died on a cross. Can't someone take a stand for him?" And he added: "Nowhere in the Constitution does it call for a separation of church and state."

OF PANDAS AND PEOPLE
By Percival Davis and Dean H. Kenyon
(Haughton Publishing Company, 170 pp., $24.95)

After a summer of heated but inconclusive wrangling, on October 18, 2004 the Dover school board passed, by a vote of six to three, a resolution that read: "Students will be made aware of gaps/problems in Darwin's theory and of other theories of evolution including, but not limited to, intelligent design. Note: Origins of Life is not taught." A month later, the Dover school district issued a press release revealing how the alternative of "intelligent design" was to be presented. Before starting to teach evolution, biology teachers were to read their ninth-grade students a statement, which included the following language:

> The Pennsylvania Academic Standards require students to learn about Darwin's Theory of Evolution and eventually to take a standardized test of which evolution is a part.
>
> Because Darwin's Theory is a theory, it continues to be tested as new evidence is discovered. The Theory is not a fact. Gaps in the Theory exist for which there is no evidence.... Intelligent design is an explanation of the origin of life that differs from Darwin's view. The reference book, *Of Pandas and People*, is available for students to see if they would like to explore this view in an effort to gain an understanding of what intelligent design actually involves. As is true with any theory, students are encouraged to keep an open mind.

The results were dramatic but predictable. Two school board members resigned. All eight science teachers at Dover High School sent a letter to the school superintendent pointing out that "intelligent design is not science. It is not biology. It is not an accepted scientific theory." The biology teachers asked to be excused from reading the statement, claiming that to do so would "knowingly and intentionally misrepresent subject matter or curriculum," a violation of their code of professional standards. And so, in January of this year, all ninth-grade biology classes were visited by the assistant superintendent himself, who read the mandated disclaimer while the teachers and a few students left the room.

Inevitably, the controversy went to the courts. Eleven Dover parents filed suit against the school district and its board of directors, asking that the "intelligent

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design" policy be rescinded for fostering "excessive entanglement of government and religion, coerced religious instruction, and an endorsement by the state of religion over non-religion and of one religious viewpoint over others." The plaintiffs are represented by the Philadelphia law firm of Pepper Hamilton, the Pennsylvania American Civil Liberties Union, and Americans United for Separation of Church and State; the defendants, by the Thomas More Law Center, a conservative Christian organization in Ann Arbor, Michigan.

WHY ALL THE FUSS ABOUT a seemingly inoffensive statement? Who could possibly object to students "keep[ing] an open mind" and examining a respectable-sounding alternative to evolution? Isn't science about testing theories against each other? The furor makes sense only in light of the tortuous history of creationism in America. Since it arose after World War I, Christian-fundamentalist creationism has undergone its own evolution, taking on newer forms after absorbing repeated blows from the courts. "Intelligent design," as I will show, is merely the latest incarnation of the biblical creationism espoused by William Jennings Bryan in Dayton. Far from a respectable scientific alternative to evolution, it is a clever attempt to sneak religion, cloaked in the guise of science, into the public schools.

The journey from Dayton to Dover was marked by a series of legal verdicts, only one of which, the Scopes trial, favored creationism. In 1925, John Scopes, a high school teacher, was convicted of violating Tennessee's Butler Act, which prohibited the teaching of "any theory that denies the Story of Divine Creation of Man as taught in the Bible, and to teach instead that man has descended from a lower order of animal." The verdict was reversed on a technicality (the judge, instead of the jury, levied the $100 fine), so the case was never appealed. In the wake of Scopes, anti-evolution laws were passed in Mississippi and Arkansas, adding to those passed by Florida and Oklahoma in 1923. Although these laws were rarely enforced, evolution nonetheless quickly disappeared from most high school biology textbooks because publishers feared losing sales in the South, where anti-evolution sentiment ran high.

In 1957, the situation changed. With the launch of Sputnik, Americans awoke to find that a scientifically advanced Soviet Union had beaten the United States into space. This spurred rapid revisions of science textbooks, some emphasizing biological evolution. But the anti-evolution statutes were still in force, and so some teachers using newer books were violating the law. One of these teachers, Susan Epperson, brought suit against the state of Arkansas for violating the Establishment Clause. She won the right to teach evolution, and *Epperson* v. *Arkansas* was upheld by the United States Supreme Court in 1968, only a year after Tennessee finally rescinded the Butler Act. Finally it was legal to teach evolution everywhere in America.

THE OPPONENTS OF EVOLUTION proceeded to re-think their strategy, deciding that if they could not beat scientists, they would join them. They thus recast themselves as "scientific creationists," proposing an ostensibly non-religious alternative to the theory of evolution that might be acceptable in the classroom. But the empirical claims of scientific creationism—that the Earth is young (6,000 to 10,000 years old), that all species were created suddenly and simultaneously, that mass extinctions were caused by a great worldwide flood—bore a suspicious resemblance to creation stories in the Bible. This strategy was devised largely by Henry Morris, an engineering professor who headed the influential Institute for Creation Research in San Diego and helped to write the textbook *Scientific Creationism*. The book came in two versions: one purged of religious references for the public schools, the other containing a scriptural appendix explaining that the science came from interpreting the Bible literally.

Scientific creationism proved a bust for two reasons. First, the "science" was ludicrously wrong. We have known for a long time that the Earth is 4.6 billion years old (the 6,000- to 10,000-year claim comes from biblical statements, including toting up the number of "begats") and that species were not created suddenly or simultaneously (not only do most species go extinct, but various groups appear at different times in the fossil record), and we have ample evidence for species' changing over time, as well as for fossils that illustrate large morphological transformations. Most risible was *Scientific Creationism*'s struggle to explain the geological record as a result of a great flood: according to its account, "primitive" organisms such as fish would be found in the lowest layers, while mammals and more "advanced" species appeared in higher layers because they climbed hills and mountains to escape the rising waters. Why dolphins are found in the upper strata with other mammals is one of many facts that this ludicrous fantasy fails to explain.

Scientific creationism also came to grief because its advocates did not adequately hide its religious underpinnings. In 1981, the Arkansas legislature passed an "equal time" bill mandating balanced treatment for "evolution science" and "creation science" in the classroom. The bill was quickly challenged in federal court by a group of religious and scientific plaintiffs led by a Methodist minister named William McLean. The defense was easily outgunned, with Judge William Overton quickly spotting biblical literalism underlying the scientific-creationist arguments. In a landmark opinion (and a masterpiece of legal argument), Overton ruled in *McLean* v. *Arkansas Board of Education* that the balanced-treatment act was unconstitutional, asserting that it violated the Establishment Clause in three ways: it lacked a secular legislative purpose, its primary effect was to advance religion, and it fostered excessive government entanglement with religion.

McLean v. *Arkansas Board of Education* began a string of legal setbacks for scientific creationists. Five years later, in *Edwards* v. *Aguillard*, the Supreme Court held that Louisiana's "Creationism Act"—an act that required the teaching of evolution in public schools to be balanced by instruction in "creation science"—was unconstitutional. In the last two decades, federal courts have also used the First Amendment to allow schools to prohibit teaching creationism and to ban school districts from requiring teachers to read evolution disclaimers similar to the one used in Dover, Pennsylvania. To get around these rulings, schools in Alabama, Arkansas, and Georgia began pasting warning stickers in biology textbooks, as if learning about evolution could endanger one's mental health. A recent specimen from Cobb County, Georgia reads: "This textbook contains material on evolution. Evolution is a theory, not a fact, regarding the origin of living things. This material should be approached with an open mind, studied carefully and critically considered."

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To laypeople—particularly those unfamiliar with the scientific status of evolution, which is actually a theory *and* a fact—the phrasing may seem harmless. But in 2005 a federal judge ordered the stickers removed. By singling out evolution as uniquely controversial among scientific theories, the stickers catered to religious biases and thus violated the First Amendment.

But the creationists did not despair. They are animated, after all, by faith. And they are very resourceful. They came up with intelligent design.

II.

Intelligent design, or ID, is the latest pseudoscientific incarnation of religious creationism, cleverly crafted by a new group of enthusiasts to circumvent recent legal restrictions. ID comes in two parts. The first is a simple critique of evolutionary theory, to the effect that Darwinism, as an explanation of the origin, the development, and the diversity of life, is fatally flawed. The second is the assertion that the major features of life are best understood as the result of creation by a supernatural intelligent designer. To understand ID, then, we must first understand modern evolutionary theory (often called "neo-Darwinism" to take into account post-Darwinian modifications).

It is important to realize at the outset that evolution is not "just a theory." It is, again, a theory *and* a fact. Although non-scientists often equate "theory" with "hunch" or "wild guess," the Oxford English Dictionary defines a scientific theory as "a scheme or system of ideas or statements held as an explanation or account of a group of facts or phenomena; a hypothesis that has been confirmed or established by observation or experiment, and is propounded or accepted as accounting for the known facts." In science, a theory is a convincing explanation for a diversity of data from nature. Thus scientists speak of "atomic theory" and "gravitational theory" as explanations for the properties of matter and the mutual attraction of physical bodies. It makes as little sense to doubt the factuality of evolution as to doubt the factuality of gravity.

Neo-Darwinian theory is not one proposition but several. The first proposition is that populations of organisms have evolved. (Darwin, who used the word "evolved" only once in *On the Origin of Species*, called this principle "descent with modification.") That is, the species on earth today are the descendants of other species that lived earlier, and the change in these lineages has been gradual, taking thousands to millions of years. Humans, for example, evolved from distinctly different organisms that had smaller brains and probably lived in trees.

The second proposition is that new forms of life are continually generated by the splitting of a single lineage into two or more lineages. This is known as "speciation." About five million years ago, a species of primates split into two distinct lineages: one leading to modern chimpanzees and the other to modern humans. And this ancestral primate itself shared a common ancestor with earlier primates, which in turn shared a common ancestor with other mammals. The earlier ancestor of all mammals shared an even earlier ancestor with reptiles, and so on back to the origin of life. Such successive splitting yields the common metaphor of an evolutionary "tree of life," whose root was the first species to arise and whose twigs are the millions of living species. Any two extant species share a common ancestor, which can in principle be found by tracing that pair of twigs back through the branches to the node where they meet. (Extinction, of course, has pruned some branches—pterodactyls, for example—which represent groups that died off without descendants.) We are more closely related to chimpanzees than to orangutans because our common ancestor with these primates lived five million versus ten million years ago, respectively. (It is important to note that although we share a common ancestor with apes, we did not evolve from living apes, but from apelike species that no longer exist. Similarly, I am related to my cousin, but the ancestors we share are two extinct grandparents.)

The third proposition is that most (though not all) of evolutionary change is probably driven by natural selection: individuals carrying genes that better suit them to the current environment leave more offspring than individuals carrying genes that make them less adapted. Over time, the genetic composition of a population changes, improving its "fit" to the environment. This increasing fit is what gives organisms the appearance of design, although, as we shall see, the "design" can be flawed.

These three propositions were first articulated in 1859 by Darwin in *On the Origin of Species*, and they have not changed substantially, although they have been refined and supplemented by modern work. But Darwin did not propose these ideas as pure "theory"; he also provided voluminous and convincing evidence for them. The weight of this evidence was so overwhelming that it crushed creationism. Within fifteen years, nearly all biologists, previously adherents of "natural theology," abandoned that view and accepted Darwin's first two propositions. Broad acceptance of natural selection came much later, around 1930.

The overwhelming evidence for evolution can be found in many books (and on many websites). Here I wish to present just a few observations that not only support the neo-Darwinist account, but in so doing refute the alternative theory of creationism—that God specially created organisms and their attributes. Given the similarity between the claims of intelligent design and creationism, it is not surprising that these observations also refute the major tenets of ID.

The fossil record is the most obvious place to search for evidence of evolution. Although the record was sparse in Darwin's time, there were already findings that suggested evolution. The living armadillos of South America bore a striking resemblance to fossil glyptodonts, extinct armored mammals whose fossils occurred in the same area. This suggested that glyptodonts and armadillos shared a common South American ancestry. And the record clearly displayed changes in the forms of life existing over large spans of time, with the deepest and oldest sediments showing marine invertebrates, with fishes appearing much later, and still later amphibians, reptiles, and mammals (along with the persistence of some groups found in earlier stages). This sequence of change was in fact established by creationist geologists long before Darwin, and was often thought to reflect hundreds of acts of divine creation. (This does not exactly comport with the account given in Genesis.)

Yet evolution predicts not just successions of forms, but also genetic lineages from ancestors to descendants. The absence of such transitional series in the fossil record bothered Darwin, who called this "the most obvious and serious objection that can be urged against the theory." (He attributed the missing links, quite reasonably, to the imperfection

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of the fossil record and the dearth of paleontological collections.) But this objection is no longer valid. Since 1859, paleontologists have turned up Darwin's missing evidence: fossils in profusion, with many sequences showing evolutionary change. In large and small organisms, we can trace, through successive layers of the fossil record, evolutionary changes occurring in lineages. Diatoms get bigger, clamshells get ribbier, horses get larger and toothier, and the human lineage evolves bigger brains, smaller teeth, and increased efficiency at bipedal walking. Moreover, we now have transitional forms connecting major groups of organisms, including fish with tetrapods, dinosaurs with birds, reptiles with mammals, and land mammals with whales. Darwin predicted that such forms would be found, and their discovery vindicated him fully. It also destroys the creationist notion that species were created in their present form and thereafter remained unchanged.

DARWIN'S SECOND LINE OF evidence comprised the developmental and structural remnants of past ancestry that we find in living species—those features that Stephen Jay Gould called "the senseless signs of history." Examples are numerous. Both birds and toothless anteaters develop tooth buds as embryos, but the teeth are aborted and never erupt; the buds are the remnants of the teeth of the reptilian ancestor of birds and the toothed ancestor of anteaters. The flightless kiwi bird of New Zealand, familiar from shoe-polish cans, has tiny vestigial wings hidden under its feathers; they are completely useless, but they attest to the fact that kiwis, like all flightless birds, evolved from flying ancestors. Some cave animals, descended from sighted ancestors that invaded caves, have rudimentary eyes that cannot see; the eyes degenerated after they were no longer needed. A creator, especially an intelligent one, would not bestow useless tooth buds, wings, or eyes on large numbers of species.

The human body is also a palimpsest of our ancestry. Our appendix is the vestigial remnant of an intestinal pouch used to ferment the hard-to-digest plant diets of our ancestors. (Orangutans and grazing animals have a large hollow appendix instead of the tiny, wormlike one that we possess.) An appendix is simply a bad thing to have. It is certainly not the product of intelligent design: how many humans died of appendicitis before surgery was invented? And consider also lanugo. Five months after conception, human fetuses grow a thin coat of hair, called lanugo, all over their bodies. It does not seem useful—after all, it is a comfortable 98.6 degrees in utero—and the hair is usually shed shortly before birth. The feature makes sense only as an evolutionary remnant of our primate ancestry; fetal apes also grow such a coat, but they do not shed it.

Recent studies of the human genome provide more evidence that we were not created *ex nihilo*. Our genome is a veritable *Gemisch* of non-functional DNA, including many inactive "pseudogenes" that were functional in our ancestors. Why do humans, unlike most mammals, require vitamin C in our diet? Because primates cannot synthesize this essential nutrient from simpler chemicals. Yet we still carry all the genes for synthesizing vitamin C. The gene used for the last step in this pathway was inactivated by mutations forty million years ago, probably because it was unnecessary in fruit-eating primates. But it still sits in our DNA, one of many useless remnants testifying to our evolutionary ancestry.

DARWIN'S THIRD LINE OF EVIdence came from biogeography, the study of the geographic distribution of plants and animals. I have already mentioned what Darwin called his "Law of Succession": living organisms in an area most closely resemble fossils found in the same location. This implies that the former evolved from the latter. But Darwin found his strongest evidence on "oceanic islands"—those islands, such as Hawaii and the Galápagos, that were never connected to continents but arose, bereft of life, from beneath the sea.

What struck Darwin about oceanic islands—as opposed to continents or "continental islands" such as Great Britain, which were once connected to continents—was the bizarre nature of their flora and fauna. Oceanic islands are simply missing or impoverished in many types of animals. Hawaii has no native mammals, reptiles, or amphibians. These animals, as well as freshwater fish, are also missing on St. Helena, a remote oceanic island in the middle of the South Atlantic Ocean. It seems that the intelligent designer forgot to stock oceanic (but not continental!) islands with a sufficient variety of animals. One might respond that this was a strategy of the creator, as those organisms might not survive on islands. But this objection fails, because such animals often do spectacularly well when introduced by humans. Hawaii has been overrun by the introduced cane toad and mongoose, to the detriment of its native fauna.

Strikingly, the native groups that are present on these islands—mainly plants, insects, and birds—are present in profusion, consisting of clusters of numerous similar species. The Galápagos archipelago harbors twenty-three species of land birds, of which fourteen species are finches. Nowhere else in the world will you find an area in which two-thirds of the birds are finches. Hawaii has similar "radiations" of fruit flies and silversword plants, while St. Helena is overloaded with ferns and weevils. Compared with continents or continental islands, then, oceanic islands have unbalanced flora and fauna, lacking many familiar groups but having an over-representation of some species.

Moreover, the animals and the plants inhabiting oceanic islands bear the greatest similarity to species found on the nearest mainland. As Darwin noted when describing the species of the Galápagos, this similarity occurs despite a great difference in habitat, a fact militating against creationism:

> Why should the species which are supposed to have been created in the Galápagos Archipelago, and nowhere else, bear so plainly the stamp of affinity to those created in America? There is nothing in the conditions of life, in the geological nature of the islands, in their height or climate, or in the proportions in which the several classes are associated together, which resembles closely the conditions of the South American coast: in fact there is a considerable dissimilarity in all these respects.

As the final peg in Darwin's biogeographic argument, he noted that the kinds of organisms commonly found on oceanic islands—birds, plants, and insects—are those that can easily get there. Insects and birds can fly to islands (or be blown there by winds), and the seeds of plants can be transported by winds or ocean currents, or in the stomachs of birds. Hawaii may have no native terrestrial mammals, but the islands do har-

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bor one native aquatic mammal, the monk seal, and one native flying mammal, the hoary bat. In a direct challenge to creationists (and now also to advocates of ID), Darwin posed this rhetorical question:

> Though terrestrial mammals do not occur on oceanic islands, aerial mammals do occur on almost every island. New Zealand possesses two bats found nowhere else in the world: Norfolk Island, the Viti Archipelago, the Bonin Islands, the Caroline and Marianne Archipelagoes, and Mauritius, all possess their peculiar bats. Why, it may be asked, has the supposed creative force produced bats and no other mammals on remote islands?

The answer is that the creative force did not produce bats, or any other creatures, on oceanic islands. All of Darwin's observations about island biogeography point to one explanation: species on islands descend from individuals who successfully colonized from the mainland and subsequently evolved into new species. Only the theory of evolution explains the paucity of mammals, birds, reptiles, amphibians, and freshwater fish on oceanic islands (they cannot get there), the radiation of some groups into many species (the few species that make it to islands find empty niches and speciate profusely), and the resemblance of island species to those from the nearest mainland (an island colonist is most likely to have come from the closest source).

IN THE LAST 150 YEARS, immense amounts of new evidence have been collected about biogeography, embryology, and, especially, the fossil record. All of it supports evolution. But support for the idea of natural selection was not so strong, and Darwin had no direct evidence for it. He relied instead on two arguments. The first was logical. If individuals in a population varied genetically (which they do), and some of this variation affected the individual's chance of leaving descendants (which seems likely), then natural selection would work automatically, enriching the population in genes that better adapted individuals to their environment.

The second argument was analogical. Artificial selection used by breeders had wrought immense changes in plants and animals, a fact familiar to everyone. From the ancestral wolf, humans selected forms as diverse as Chihuahuas, St. Bernards, poodles, and bulldogs. Starting with wild cabbage, breeders produced domestic cabbage, broccoli, kohlrabi, kale, cauliflower, and Brussels sprouts. Artificial selection is nearly identical to natural selection, except that humans rather than the environment determine which variants leave offspring. And if artificial selection can produce such a diversity of domesticated plants and animals in a thousand-odd years, natural selection could obviously do much more over millions of years.

But we no longer need to buttress natural selection solely with analogy and logic. Biologists have now observed hundreds of cases of natural selection, beginning with the well-known examples of bacterial resistance to antibiotics, insect resistance to DDT, and HIV resistance to antiviral drugs. Natural selection accounts for the resistance of fish and mice to predators by making them more camouflaged, and for the adaptation of plants to toxic minerals in the soil. (A long list of examples may be found in *Natural Selection in the Wild*, by John Endler.) Moreover, the strength of selection observed in the wild, when extrapolated over long periods, is more than adequate to explain the diversification of life on Earth.

Since 1859, Darwin's theories have been expanded, and we now know that some evolutionary change can be caused by forces other than natural selection. For example, random and non-adaptive changes in the frequencies of different genetic variants—the genetic equivalent of coin-tossing—have produced evolutionary changes in DNA sequences. Yet selection is still the only known evolutionary force that can produce the fit between organism and environment (or between organism and organism) that makes nature seem "designed." As the geneticist Theodosius Dobzhansky remarked, "Nothing in biology makes sense except in the light of evolution."

And so evolution has graduated from theory to fact. We *know* that species on earth today descended from earlier, different species, and that every pair of species had a common ancestor that existed in the past. Most evolutionary change in the features of organisms, moreover, is almost certainly the result of natural selection. But we must also remember that, like all scientific truths, the truth of evolution is provisional: it could conceivably be overturned by future investigations. It is possible (but unlikely!) that we could find human fossils co-existing with dinosaurs, or fossils of birds living alongside those of the earliest invertebrates 600 million years ago. Either observation would sink neo-Darwinism for good.

When applied to evolution, the erroneous distinction between theory and fact shows why tactics such as the Dover disclaimer and the Cobb County textbook sticker are doubly pernicious. To teach that a scientific theory is equivalent to a "guess" or a "hunch" is deeply misleading, and to assert that "evolution is a theory, not a fact" is simply false. And why should evolution, alone among scientific theories, be singled out with the caveat "This material should be approached with an open mind, studied carefully and critically considered"? Why haven't school boards put similar warnings in physics textbooks, noting that gravity and electrons are only theories, not facts, and should be critically considered? After all, nobody has ever seen gravity or an electron. The reason that evolution stands alone is clear: other scientific theories do not offend religious sensibilities.

III.

GIVEN THE COPIOUS EVIDENCE for evolution, it seems unlikely that it will be replaced by an alternative theory. But that is exactly what intelligent-design creationists are demanding. Is there some dramatic new evidence, then, or some insufficiency of neo-Darwinism, that warrants overturning the theory of evolution?

The question is worth asking, but the answer is no. Intelligent design is simply the third attempt of creationists to proselytize our children at the expense of good science and clear thinking. Having failed to ban evolution from schools, and later to get equal classroom time for scientific creationism, they have made a few adjustments designed to sneak Christian cosmogony past the First Amendment. And these adjustments have given ID a popularity never enjoyed by earlier forms of creationism. Even the president of the United States has lent a sympathetic ear: George W. Bush recently told reporters in Texas that intelligent design should be taught in public schools alongside evolution

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because "part of education is to expose people to different schools of thought." Articles by IDers, or about their "theory," regularly appear in mainstream publications such as *The New York Times*.

Why have the new image and the new approach been more successful? For a start, IDers have duped many people by further removing God from the picture, or at least hiding him behind the frame. No longer do creationists mention a deity, or even a creator, but simply a neutral-sounding "intelligent designer," as if it were not the same thing. This designer could in principle be Brahma, or the Taoist P'an Ku, or even a space alien; but ID creationists, as will be evident to anybody who attends to all that they say, mean only one entity: the biblical God. Their problem is that invoking this deity in science classes in public schools is unconstitutional. So IDers never refer openly to God, and people unfamiliar with the history of their creationist doctrine might believe that there is a real scientific theory afoot. They use imposing new terms such as "irreducible complexity," which make their arguments seem more sophisticated than those of earlier creationists.

In addition, many IDers have more impressive academic credentials than did earlier scientific creationists, whose talks and antics always bore a whiff of the revival meeting. Unlike scientific creationists, many IDers work at secular institutions rather than at Bible schools. IDers work, speak, and write like trained academics; they do not come off as barely repressed evangelists. Their ranks include Phillip Johnson, the most prominent spokesperson for ID, and a retired professor of law at the University of California, Berkeley; Michael Behe, a professor of biochemistry at Lehigh University; William Dembski, a mathematician-philosopher and the director of the Center for Theology and Science at Southern Baptist Theological Seminary; and Jonathan Wells, who has a doctorate in biology from Berkeley.

All of these proponents, save Johnson, are senior fellows at the Center for Science and Culture (CSC), a division of the Discovery Institute, which is a conservative think tank in Seattle. (Johnson is the "program advisor" to the CSC.) The CSC is the nerve center of the intelligent-design movement. Its origins are demonstrably religious: as described by the Discovery Institute, the CSC was designed explicitly "to defeat scientific materialism and its destructive moral, cultural, and political legacies" and "to replace materialistic explanations with the theistic understanding that nature and human beings are created by God." Between them, these IDers have published more than a dozen books about intelligent design (Johnson alone has produced eight), which in turn have provoked numerous responses by scientists. Let us examine one of their most influential volumes, the textbook called *Of Pandas and People*. This is the book recommended by the Dover school district as a "reference book" for students interested in learning about intelligent design.

Of Pandas and People is a textbook designed as an antidote to the evolution segment of high school biology classes. It was first published in 1989. By repackaging and updating a subset of traditional young-earth creationist arguments while avoiding taking a stand on any issues that might divide creationists (such as the age of the Earth), it marked the beginning of the modern intelligent-design movement. By presenting the case for ID, it is supposedly designed to give students a "balanced perspective" on evolution. Although the second edition of *Pandas* is now twelve years old (a third edition, called *Design of Life*, is in the works), it accurately presents to students the major arguments for ID.

Pandas carefully avoids mentioning God (except under aliases such as "intelligent designer," "master intellect," and so on); but a little digging reveals the book's deep religious roots. One of its authors, Percival Davis, wrote explicitly about his religious beliefs in his book *A Case for Creation*, co-authored with Wayne Frair: "Truth as God sees it is revealed in the pages of Scripture, and that revelation is therefore more certainly true than any human rationalism. For the creationist, revealed truth controls his view of the universe to at least as great a degree as anything that has been advanced using the scientific method." Its other author, Dean Kenyon, has written approvingly of scientific creationism.

Pandas is published by the Haughton Publishing Company of Dallas, a publisher of agricultural books, but the copyright is held by the Foundation for Thought and Ethics (FTE) in Richardson, Texas. Although the FTE website scrupulously avoids mentioning religion, its articles of incorporation note with stark clarity that its "primary purpose is both religious and educational, which includes, but is not limited to, proclaiming, preaching, teaching, promoting, broadcasting, disseminating, and otherwise making known the Christian gospel and understanding of the Bible and the light it sheds on the academic and social issues of our day." In a fund-raising letter for the proposed third edition of *Pandas*, Jon Buell, president of the FTE, is equally frank about his goals:

> We will energetically continue to publish and propel these strategic tools in the battle for the minds and hearts of the young.... Yes, most young Americans are exposed to numerous gospel presentations. But the fog of the alien world view deadens their responses. This is why we have to inundate them with a rational, defensible, well-argued Judeo-Christian world view. FTE's carefully-researched books do just that.

Charles Thaxton, the "academic editor" of *Pandas*, is the director of curriculum research for FTE and a fellow of the CSC. In a proto-ID book on the origin of life, Thaxton argued that "Special Creation by a Creator beyond the cosmos is a plausible view of origin science."

Given *Pandas*' pedigree and the affiliations of its authors, it is not surprising that the book is nothing more than disguised creationism. What is surprising is the transparency of this disguise. Despite the efforts of IDers to come up with new anti-Darwinian arguments, *Pandas* turns out to be nothing more than recycled scientific creationism, with most of the old arguments buffed up and proffered as new. (Unlike scientific creationism, however, *Pandas* adopts a studied neutrality toward the facts of astronomy and geology, instead of denying them outright.)

Pandas' discussion of the Earth's age is a prime example of the book's creationist roots, and of its anti-scientific attitude. If the Earth were young—say, the 6,000 to 10,000 years old posited by "young earth" biblical creationists—then evolution would be false. Life simply could not have originated, evolved, and diversified in such a short time. But we now know from several independent and mutually corroborating lines of evidence that the Earth is 4.6 billion years old. All

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geologists agree on this. So what is *Pandas*' stance on this critical issue? The book merely notes that design proponents "are divided on the issue of the earth's age. Some take the view that the earth's history can be compressed into a framework of thousands of years, while others adhere to the standard old earth chronology." Well, what's the truth? This equivocation is an attempt to paper over a strong disagreement between young-earth creationists and old-earth creationists, both of whom have marched under the banner of ID. It is typical of creationists to exploit disagreements between evolutionists as proof that neo-Darwinism is dead while at the same time hiding their own disagreements from the public.

This equivocation about the fundamental fact of Earth's age does not bode well for the textbook's treatment of the fossil record. Indeed, in this area the authors continue their misrepresentations. Their basic premise is the old creationist argument that organisms appeared simultaneously and have remained largely unchanged ever since. *Pandas* says of the fossil record that "fully formed organisms appear all at once, separated by distinct gaps." That's not exactly true. Different types of organisms appear in a distinct sequence supporting evolution. The first fossils of living organisms, bacteria, appear 3.5 billion years ago, followed two billion years later by algae, the first organisms having true cells with a nucleus containing distinct chromosomes. Then, 600 million years ago, we see the appearance of rudimentary animals with shells, and many soft-bodied marine organisms. Later, in the Cambrian period, about 543 million years ago, a number of groups arose in a relatively short period of time, the so-called "Cambrian explosion." ("Short period" here means geologically short, in this case 10 million to 30 million years). The Cambrian groups include mollusks, starfish, arthropods, worms, and chordates (including vertebrates). And in some cases, such as worms, modern groups do not just spring into being, but increase in complexity over millions of years.

Creationists have always made much of the "Cambrian explosion," and IDers are no exception. The relatively sudden appearance of many groups seems to support the Genesis view of creation. But IDers—and *Pandas*—fail to emphasize several facts. First, the Cambrian explosion was not "sudden"; it took many millions of years. (We still do not understand why many groups originated in even this relatively short time, although it may reflect an artifact: the evolution of easily fossilized hard parts suddenly made organisms capable of being fossilized.) Moreover, the species of the Cambrian are no longer with us, though their descendants are. But over time, nearly every species that ever lived (more than 99 percent of them) has gone extinct without leaving descendants. Finally, many animals and plants do not show up as fossils until well after the Cambrian explosion: bony fishes and land plants first appeared around 440 million years ago, reptiles around 350 million years ago, mammals around 250 million years ago, flowering plants around 210 million years ago, and human ancestors around 5 million years ago. The staggered appearance of groups that become very different over the next 500 million years gives no support to the notion of instantaneously created species that thereafter remain largely unchanged. If this record does reflect the exertions of an intelligent designer, he was apparently dissatisfied with nearly all of his creations, repeatedly destroying them and creating a new set of species that just happened to resemble descendants of those that he had destroyed.

Pandas also makes much of the supposed absence of transitional forms: the "missing" links between major forms of life that, according to evolutionary theory, must have existed as common ancestors. Their absence, claim creationists, is a major embarrassment for evolutionary biology. Phillip Johnson's influential book *Darwin on Trial*, which appeared in 1993, particularly emphasizes these gaps, which, IDers believe, reflect the designer's creation of major forms *ex nihilo*. And there are indeed some animals, such as bats, that appear in the fossil record suddenly, without obvious ancestors. Yet in most cases these gaps are certainly due to the imperfection of the fossil record. (Most organisms do not get buried in aquatic sediments, which is a prerequisite for fossilization.) And species that are soft-bodied or have fragile bones, such as bats, degrade before they can fossilize. Paleontologists estimate that we have fossils representing only about one in a thousand of all the species that ever lived.

In its treatment of evolutionary transitions, *Pandas* is again guilty of distortion. Paleontologists have uncovered many transitional forms between major groups, almost more than we have a right to expect. *Pandas* simply ignores—or waves away—these "non-missing links," stating that "we cannot form a smooth, unambiguous transitional series linking, let's say, the first small horse to today's horse, fishes to amphibians, or reptiles to mammals." This is flatly wrong. All three cited transitions (and others) are well documented with fossils. Moreover, the transitional forms appear at exactly the right time in the fossil record: after the ancestral forms already existed, but before the "linked" later group had evolved.

Take one example: the link between early reptiles and later mammals, the so-called mammal-like reptiles. Three hundred fifty million years ago, the world was full of reptiles, but there were no mammals. By 250 million years ago, mammals had appeared on the scene. (Fossil reptiles are easily distinguished from fossil mammals by a complex of skeletal traits including features of the teeth and skull.) Around 275 million years ago, forms appear that are intermediate in skeletal traits between reptiles and mammals, in some cases so intermediate that the animals cannot be unambiguously classified as either reptiles or mammals. These mammal-like reptiles, which become less reptilian and more mammalian with time, are the no-longer-missing links between the two forms, important not only because they have the traits of both forms, but also because they occur at exactly the right time.

One of these traits is worth examining in detail because it is among the finest examples of an evolutionary transition. This trait is the "chewing" hinge where the jaw meets the skull. In early reptiles (and their modern reptilian

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descendants), the lower jaw comprises several bones, and the hinge is formed by the quadrate bone of the skull and the articular bone of the jaw. As mammal-like reptiles become more mammalian, these hinge bones become smaller, and ultimately the jaw hinge shifts to a different pair of bones: the dentary (our "jawbone") and the squamosal, another bone of the skull. (The quadrate and articular, much reduced, moved into the middle ear of mammals, forming two of the bones that transmit sounds from the eardrum to the middle ear.) The dentary-squamosal articulation occurs in all modern mammals, the quadrate-articular in modern reptiles; and this difference is often used as the defining feature of these groups.

Like earlier creationist tracts, *Pandas* simply denies that this evolution of the jaw hinge occurred. It asserts that "there is no fossil record of such an amazing process," and further notes that such a migration would be "extraordinary." This echoes the old creationist argument that an adaptive transition from one type of hinge to another by means of natural selection would be impossible: members of a species could not eat during the evolutionary period when their jaws were being unhinged and then rehinged. (The implication is that the intelligent designer must have done this job instantaneously and miraculously.) But we have long known how this transition happened. It was easily accomplished by natural selection. In 1958, Alfred Crompton described the critical fossil: the mammal-like reptile *Diarthrognathus broomi*. *D. broomi* has, in fact, a double jaw joint with two hinges—the reptilian one and the mammalian one! Obviously, this animal could chew. What better "missing link" could we find?

IT SHOULD EMBARRASS IDERS THAT so many of the missing links cited by *Pandas* as evidence for supernatural intervention are no longer missing. Creationists make a serious mistake when using the absence of transitional forms as evidence for an intelligent designer. In the last decade, paleontologists have uncovered a fairly complete evolutionary series of whales, beginning with fully terrestrial animals that became more and more aquatic over time, with their front limbs evolving into flippers and their hind limbs and pelvis gradually reduced to tiny vestiges. When such fossils are found, as they often are, creationists must then punt and change their emphasis to other missing links, continually retreating before the advance of science.

As for other transitional forms, IDers simply dismiss them as aberrant fossils. *Pandas* characterizes *Homo erectus* and other probable human ancestors as "little more than apes." But this is false. While *H. erectus* has a skull with large brow ridges and a braincase much smaller than ours, the rest of its skeleton is nearly identical to that of modern humans. The famous fossil *Archaeopteryx*, a small dinosaur-like creature with teeth and a basically reptilian skeleton but also with wings and feathers, is probably on or closely related to the line of dinosaurs that evolved into birds. But *Pandas* dismisses this fossil as just an "oddball" type, and laments instead the lack of the unfossilizable: "If only we could find a fossil showing scales developing the properties of feathers, or lungs that were intermediate between the very different reptilian and avian lungs, then we would have more to go on." It is again a typical creationist strategy that when skeletons of missing links turn up, creationists ignore them and insist that evidence of intermediacy be sought instead in the soft parts that rarely fossilize. In sum, the treatment of the fossil evidence for evolution in *Pandas* is shoddy and deceptive, and offers no advance over the discredited arguments of scientific creationism.

IN CONTRAST TO ITS LONG TREATment and dismissal of the fossil record, *Pandas* barely deals with evidence for evolution from development and vestigial traits. The best it can do is note that vestigial features can have a function, and therefore are not really vestigial. The vestigial pelvic bones and legs of the transitional whale *Basilosaurus*, which were not connected to the skeleton, may have functioned as a guide for the penis during mating. Such a use, according to the authors of *Pandas*, means that the legs and pelvis "were not vestigial as originally thought." But this argument is wrong: no evolutionist denies that the remnants of ancestral traits can retain some functionality or be coopted for other uses. The "penis guide" has every bone in the mammalian pelvis and rear leg in reduced form—femur, tibia, fibula, and digits. In *Basilosaurus*, nearly all of these structures lay within the body wall, and most parts were immobile. Apparently the intelligent designer had a whimsical streak, choosing to construct a sex aid that looked exactly like a degenerate pelvis and set of hind limbs.

And what about the strong evidence for evolution from biogeography? About this *Pandas*, like all creationist books, says nothing. The omission is strategic. It would be very hard for IDers to give plausible reasons why an "intelligent" designer stocked oceanic islands with only a few types of animals and plants—and just those types with the ability to disperse from the nearest mainland. Biogeography has always been the Achilles' heel of creationists, so they just ignore it.

IV.

ALTHOUGH INTELLIGENT DEsign rejects much of the evidence for evolution, it still admits that some evolutionary change occurs through natural selection. This change is what *Pandas* calls "microevolution," or "small scale genetic changes, observable in organisms." Such microevolutionary changes include the evolution of antibiotic resistance in bacteria, changes in the proportion of different-colored moths due to predation by birds, and all changes wrought by artificial selection. But *Pandas* hastens to add that microevolution gives no evidence for the origin of diverse types of organisms, because "these limited changes do not accumulate the way Darwinian evolutionary theory requires in order to produce macro changes. The process that produces macroevolutionary changes [defined here as "large scale changes, leading to new levels of complexity"] must be different from any that geneticists have studied so far."

So, though one can use selection to transform a wolf into either a Chihuahua or a St. Bernard, that is merely microevolution: they are all still dogs. And a DDT-resistant fly is still a fly. *Pandas* thus echoes the ID assertion that natural selection cannot do more than create microevolutionary changes: "It cannot produce new characteristics. It only acts on traits that already exist." But this is specious reasoning. As we have noted, fossils already show that "macro change," as defined by *Pandas*, has occurred in the fossil record (the evolution of fish into amphibians, and so on). And if breeders have not turned a dog into another kind

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of animal, it is because dog breeding has been going on for only a few thousand years, while the differences between dogs and cats, for example, have evolved over more than ten million years. No principle of evolution dictates that evolutionary changes observed during a human lifetime cannot be extrapolated to much longer periods.

In fact, *Pandas* admits that the fruit flies of Hawaii—a diverse group of more than 300 species—have all evolved from a common ancestor. We now know that this common ancestor lived about 20 million years ago. The species of Hawaiian flies differ in many traits, including size, shape, ecology, color pattern, mating behavior, and so on. One can in fact make a good case that some of the fly species differ more from each other than humans differ from chimps. Why, then, do IDers assert that chimps and humans (whose ancestor lived only 5 million years ago) must have resulted from separate acts of creation by the intelligent designer, while admitting that fruit flies evolved from a common ancestor that lived 20 million years ago? The answer is that humans must at all costs not be lumped in with other species, so as to protect the biblical status of humans as uniquely created in God's image.

ACCORDING TO *PANDAS*, THE theory of "limits to evolution" is a scientific one: "The idea of intelligent design does not preclude the possibility that variation within species occurs, or that new species are formed from existing populations . . . the theory of intelligent design does suggest that there are limits to the amount of variation that natural selection and random change mechanisms can produce." But there is nothing in the theory of intelligent design that tells us how far evolution can go. This "thus far and no further" view of evolution comes not from any scientific findings of ID; it comes from ID's ancestor, scientific creationism. *Scientific Creationism* notes that "the creation model . . . recognizes only the kind as the basic created unit, in this case, mankind," and a chart contrasting evolution with the "creation model" says that the former predicts "new kinds appearing," while the latter says "no new kinds appearing."

But what is a "kind"? No creationist has ever defined it, though they are all very sure that humans and apes are different "kinds." In fact, the notion that evolution and creation have operated together, with the latter creating distinct "kinds," was nicely rebutted by Darwin in *On the Origin of Species*:

> Several eminent naturalists . . . admit that they [evolved species] have been produced by variation, but they refuse to extend the same view to other and very slightly different forms. Nevertheless they do not pretend that they can define, or even conjecture, which are the created forms of life, and which are those produced by secondary laws. They admit variation as a *vera causa* in one case, they arbitrarily reject it in another, without assigning any distinction in the two cases. The day will come when this will be given as a curious illustration of the blindness of preconceived opinion. These authors seem no more startled at a miraculous act of creation than at an ordinary birth. But do they really believe that at innumerable periods in the earth's history certain elemental atoms have been commanded suddenly to flash into living tissues? Do they believe that at each supposed act of creation one individual or many were produced? Were all the infinitely numerous kinds of animals and plants created as egg or seed, or as full grown? and in the case of mammals, were they created bearing the false marks of nourishment from the mother's womb? Although naturalists very properly demand a full explanation of every difficulty from those who believe in the mutability of species, on their own side they ignore the whole subject of the first appearance of species in what they consider reverent silence.

In fact, the biblical appendix of *Scientific Creationism* shows that the term "kind" derives from the biblical notion of *created* kinds:

> The Scriptures are very clear in their teaching that God created all things as He wanted them to be, each with its own particular structure, according to His own sovereign purposes. The account of Genesis 1, for example, indicates that at least ten major categories of organic life were specially created "after his kind." . . . Finally, man "kind" was created as another completely separate category. The phrase "after his kind" occurs ten times in this first chapter of Genesis.

There is thus a clear line of descent from the story of Genesis to the ID notion of evolutionary limits, a line charted by what Darwin called "the blindness of preconceived opinion." Until IDers tell us what the limits to evolution are, how they can be ascertained, and what evidence supports these limits, this notion cannot be regarded as a genuinely scientific claim.

V.

IDERS MAKE ONE CLAIM THAT THEY tout as truly novel, a claim that has become quite popular. It is the idea that organisms show some adaptations that could not be built by natural selection, thus implying the need for a supernatural creative force such as an intelligent designer. These adaptations share a property called "irreducible complexity," a characteristic discussed in *Pandas* but defined more explicitly by Michael Behe in 1996 in his book *Darwin's Black Box: The Biochemical Challenge to Evolution*: "By *irreducibly complex* I mean a single system composed of several well-matched, interacting parts that contribute to the basic function, wherein the removal of any one of the parts causes the system to effectively cease functioning."

Many man-made objects show this property: Behe cites the mousetrap, which would not work if even one part were removed, such as the catch, the spring, the base, and so on. *Pandas* mentions a car engine, which will not work if one removes the fan belt, spark plugs, distributor cap, or any of numerous individual parts. A famous example of an irreducibly complex system in the biological realm is the "camera" eye of humans and other vertebrates. The eye has many parts whose individual removal would render the organ useless, including the lens, retina, and optic nerve.

The reason IDers love "irreducibly complex" features of organisms is that natural selection is powerless (or so they claim) to create such features. As Behe notes:

> An irreducibly complex system cannot be produced directly . . . by slight, successive modifications of a precursor system, because any precursor to an irreducibly complex system that

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> is missing a part is by definition non-functional.... Since natural selection can only choose systems that are already working, then if a biological system cannot be produced gradually it would have to arise as an integrated unit, in one fell swoop, for natural selection to have anything to act on.

"One fell swoop," of course, implies that the feature must have been produced by the miraculous intervention of the intelligent designer.

But this argument for intelligent design has a fatal flaw. We have realized for decades that natural selection can indeed produce systems that, over time, become integrated to the point where they *appear* to be irreducibly complex. But these features do not evolve by the sequential addition of parts to a feature that becomes functional only at the end. They evolve by adding, via natural selection, more and more parts into an originally rudimentary but functional system, with these parts sometimes co-opted from other structures. Every step of this process improves the organism's survival, and so is evolutionarily possible via natural selection.

Consider the eye. Creationists have long maintained that it could not have resulted from natural selection, citing a sentence from *On the Origin of Species*: "To suppose that the eye with all its inimitable contrivances for adjusting the focus to different distances, for admitting different amounts of light, and for the correction of spherical and chromatic aberration, could have been formed by natural selection, seems, I freely confess, absurd in the highest degree." But in the next passage, invariably omitted by creationists, Darwin ingeniously answers his own objection:

> Reason tells me, that if numerous gradations from a simple and imperfect eye to one complex and perfect can be shown to exist, each grade being useful to its possessor, as is certainly the case; if further, the eye ever varies and the variations be inherited, as is likewise certainly the case and if such variations should be useful to any animal under changing conditions of life, then the difficulty of believing that a perfect and complex eye could be formed by natural selection, though insuperable by our imagination, should not be considered as subversive of the theory.

Thus our eyes did not suddenly appear as full-fledged camera eyes, but evolved from simpler eyes, having fewer components, in ancestral species. Darwin brilliantly addressed this argument by surveying existing species to see if one could find functional but less complex eyes that not only were useful, but also could be strung together into a hypothetical sequence showing how a camera eye might evolve. If this could be done—and it can—then the argument for irreducible complexity vanishes, for the eyes of existing species are obviously useful, and each step in the hypothetical sequence could thus evolve by natural selection.

A possible sequence of such changes begins with pigmented eye spots (as seen in flatworms), followed by an invagination of the skin to form a cup protecting the eyespot and allowing it to better localize the image (as in limpets), followed by a further narrowing of the cup's opening to produce an improved image (the nautilus), followed by the evolution of a protective transparent cover to protect the opening (ragworms), followed by coagulation of part of the fluid in the eyeball into a lens to help focus the light (abalones), followed by the co-opting of nearby muscles to move the lens and vary the focus (mammals). The evolution of a retina, an optic nerve, and so on would follow by natural selection. Each step of this transitional "series" confers increased adaptation on its possessor, because it enables the animal to gather more light or to form better images, both of which aid survival. And each step of this process is exemplified by the eye of a different living species. At the end of the sequence we have the camera eye, which seems irreducibly complex. But the complexity is reducible to a series of small, adaptive steps.

Now, we do not know the precise order in which the components of the camera eye evolved—but the point is that the appearance of "irreducible complexity" cannot be an argument against neo-Darwinism if we can document a plausible sequence in which the complexity can arise from a series of adaptive steps. The "irreducible complexity" argument is not, in fact, completely novel. It descends, with modification, from the British theologian William Paley, who in 1802 raised the famous "argument from design" in his book *Natural Theology*. Paley argued that just as finding a watch on the ground implies a conscious designer (the watchmaker), so finding an equally complex organism implies a cosmic designer (God).

But the eye is not a watch. The human eye, though eminently functional, is imperfect—certainly not the sort of eye an engineer would create from scratch. Its imperfection arises precisely because our eye evolved using whatever components were at hand, or produced by mutation. Since our retina evolved from an everted part of the brain, for example, the nerves and blood vessels that attach to our photoreceptor cells are on the inside rather than the outside of the eye, running over the surface of the retina. Leakage of these blood vessels can occlude vision, a problem that would not occur if the vessels fed the retina from behind. Likewise, to get the nerve impulses from the photocells to the brain, the different nerves must join together and dive back through the eye, forming the optic nerve. This hole in the retina creates a blind spot in the eye, a flaw that again would be avoidable with a priori design. The whole system is like a car in which all the wires to the dashboard hang inside the driver's compartment instead of being tucked safely out of sight. Evolution differs from a priori design because it is constrained to operate by modifying whatever features have evolved previously. Thus evolution yields fitter types that often have flaws. These flaws violate reasonable principles of intelligent design.

IDers tend to concentrate more on biochemistry than on organs such as the eye, citing "irreducibly complex" molecular systems such as the mechanism for blood-clotting and the immune system. Like the eye, these systems supposedly could not have evolved, since removal of any step in these pathways would render the entire pathway non-functional. (This biochemical complexity is the subject of Behe's book *Darwin's Black Box*.) Discussing the blood-clotting system in its sixth chapter (partially written by Behe), *Pandas* asserts that "like a car engine, biological systems can only work after they have been assembled by someone who knows what the final result will be." This is nonsense. As we have seen in the case of the eye, biological systems are not useful only at the end of a long evolutionary

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process, but during every step of that process. And biochemical systems—like all adaptations created by natural selection—are not assembled with foresight. Whatever useful mutations happen to arise get folded into the system.

There is no doubt that many biochemical systems are dauntingly complex. A diagram of the blood-clotting pathway looks like a complicated circuit board, with dozens of proteins interacting with one another to one end: healing a wound. And the system seems irreducibly complex, because without any of several key proteins, the blood would not clot. Yet such biochemical systems evolved in the same way that the eye evolved, by adding parts successively and adaptively to simpler, functioning systems. It is more difficult to trace the evolution of biochemical pathways than of anatomical structures because the ancestral metabolic pathways are no longer present. But biologists are beginning to provide plausible scenarios for how "irreducibly complex" biochemical pathways might have evolved. As expected, these systems involve using bits co-opted from other pathways originally having different functions. (Thus, one of the enzymes in the blood-clotting system also plays a role in digestion and cell division.) In view of our progress in understanding biochemical evolution, it is simply irrational to say that because we do not completely understand how biochemical pathways evolved, we should give up trying and invoke the intelligent designer. If the history of science shows us anything, it is that we get nowhere by labeling our ignorance "God."

VI.

Insofar as intelligent-design theory can be tested scientifically, it has been falsified. Organisms simply do not look as if they had been intelligently designed. Would an intelligent designer create millions of species and then make them go extinct, only to replace them with other species, repeating this process over and over again? Would an intelligent designer produce animals having a mixture of mammalian and reptilian traits, at exactly the time when reptiles are thought to have been evolving into mammals? Why did the designer give tiny, non-functional wings to kiwi birds? Or useless eyes to cave animals? Or a transitory coat of hair to a human fetus? Or an appendix, an injurious organ that just happens to resemble a vestigial version of a digestive pouch in related organisms? Why would the designer give us a pathway for making vitamin C, but then destroy it by disabling one of its enzymes? Why didn't the intelligent designer stock oceanic islands with reptiles, mammals, amphibians, and freshwater fish, despite the suitability of such islands for these species? And why would he make the flora and fauna on those islands resemble that of the nearest mainland, even when the environments are very different? Why, about a million years ago, would the designer produce creatures that have an apelike cranium perched atop a humanlike skeleton? And why would he then successively replace these creatures with others having an ever-closer resemblance to modern humans?

There are only two answers to these questions: either life resulted not from intelligent design, but from evolution; or the intelligent designer is a cosmic prankster who designed everything to make it look as though it had evolved. Few people, religious or otherwise, will find the second alternative palatable. It is the modern version of the old argument that God put fossils in the rocks to test our faith.

The final blow to the claim that intelligent design is scientific is its proponents' admission that we cannot understand the designer's goals or methods. Behe owns up to this in *Darwin's Black Box*: "Features that strike us as odd in a design might have been placed there by the designer for a reason—for artistic reasons, to show off, for some as-yet-undetectable practical purpose, or for some unguessable reason—or they might not." And, discussing skeletal differences between placental and marsupial mammals, *Pandas* notes:

> Why were not the North American placentals given the same bones? Would an intelligent designer withhold these structures from placentals if they were superior to the placental system? At present we do not know; however, we all recognize that an engineer can choose any of several different engineering solutions to overcome a single design problem. An intelligent designer might reasonably be expected to use a variety (if a limited variety) of design approaches to produce a single engineering solution, also. Even if it is assumed that an intelligent designer did indeed have a good reason for every decision that was made, and for including every trait in each organism, it does not follow that such reasons will be obvious to us.

Well, if we admit that the designer had a number of means and motives, which can be self-contradictory, arbitrary, improvisatory, and "unguessable," then we are left with a theory that cannot be rejected. Every conceivable observation of nature, including those that support evolution, becomes compatible with ID, for the ways of the designer are unfathomable. And a theory that cannot be rejected is not a scientific theory. If IDers want to have a genuinely scientific theory, let them propose a model that can be rigorously tested.

Given its lack of rigor, one might expect that ID theory would not inspire much scientific research. And there is virtually none. Despite the claims of ID to be a program of research, its adherents have published only one refereed paper supporting ID in a scientific journal: a review of ID by Stephen C. Meyer, the director of the Discovery Institute's Center for Science and Culture, which appeared in the *Proceedings of the Biological Society of Washington*. This paper merely rehashes ID arguments for why natural selection and evolution cannot explain the diversity of life and then asserts that intelligent design is the only alternative. It distorts the evolutionary literature it purports to review, and it neither advances new scientific arguments nor suggests any way that ID better explains patterns in nature. Not surprisingly, the Council of the Biological Society of Washington later disowned the paper because it did

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"not meet the scientific standards of the *Proceedings*."

The gold standard for modern scientific achievement is the publication of new results in a peer-reviewed scientific journal. By that standard, IDers have failed miserably. As William Dembski himself noted, "There are good and bad reasons to be skeptical of intelligent design. Perhaps the best reason is that intelligent design has yet to establish itself as a thriving scientific research program." IDers desperately crave scientific respectability, but it is their own theory that prevents them from attaining it. Thus, while IDers demand that evolutionists produce thousands of transitional fossils and hundreds of detailed scenarios about the evolution of biochemical pathways, they put forth no observations supporting the plausibility of a supernatural designer, nor do they show how appeal to such a designer could explain the fossil record, embryology, and biogeography better than neo-Darwinism. Herbert Spencer could have been describing ID when he declared that "those who cavalierly reject the Theory of Evolution as not being adequately supported by facts, seem to forget that their own theory is supported by no facts at all. Like the majority of men who are born to a given belief, they demand the most rigorous proof of any adverse belief, but assume that their own needs none."

Finally, the reliance of ID on supernatural intervention means that the enterprise cannot be seen, strictly speaking, as scientific. In his rejection of scientific creationism in *McLean* v. *Arkansas*, Judge Overton described the characteristics of good science:

> (1) It is guided by natural law;
> (2) It has to be explanatory by reference to natural law;
> (3) It is testable against the empirical world;
> (4) Its conclusions are tentative, i.e., are not necessarily the final word; and
> (5) It is falsifiable.

By invoking the repeated occurrence of supernatural intervention by an intelligent designer to create new species and new traits, ID violates criteria 1 and 2; and in its ultimate reliance on Christian dogma and God, it violates criteria 3, 4, and 5.

In candid moments, usually when writing for or speaking to a religious audience, IDers admit the existence not only of supernatural acts as a part of their theory, but also of Christian supernatural acts. In a foreword to a book on creationism, Johnson wrote: "The intelligent design movement starts with the recognition that 'In the beginning was the Word,' and 'In the beginning God created.' Establishing that point isn't enough, but it is absolutely essential to the rest of the gospel message." And here is Dembski writing in *Touchstone*, a Christian magazine: "The world is a mirror representing the divine life.... Intelligent design readily embraces the sacramental nature of physical reality. Indeed intelligent design is just the Logos theology of John's Gospel restated in the idiom of information theory." Indeed, in the manuscript draft of the first edition of *Pandas,* the terms "creationism," "creationist," and "creation" are used repeatedly instead of the equivalent ID terms, and "creationism" is defined identically to "intelligent design" in the published version. Nothing gives a clearer indication that one ancestor of this textbook was the Bible.

IT IS CLEAR, THEN, THAT INTELLIgent design did not arise because of some long-standing problems with evolutionary theory, or because new facts have called neo-Darwinism into question. ID is here for only one reason—to act as a Trojan horse poised before the public schools: a seemingly secular vessel ready to inject its religious message into the science curriculum. The contents of *Pandas*, and of the other writings of IDers, are simply a cunning pedagogical ploy to circumvent legal restrictions against religious creationism. (With any luck, though, the publicity will backfire. Last month *The York Dispatch* in Pennsylvania reported that the Foundation for Thought and Ethics, the group that publishes this textbook and others designed to present "a Christian perspective," wanted to intervene in the Dover lawsuit. According to John Buell, the foundation's president, the association of ID with creationism "would make the book radioactive," and his outfit could lose as much as $525,000 in sales.)

ID is part of what Johnson candidly calls the "wedge strategy," a carefully crafted scheme that begins with the adoption of intelligent design as an alternative theory to evolution, after which ID will edge out evolution until it is the only view left, after which it will become full-blown biblical creationism. The ultimate goal is to replace naturalist science with spiritualist thinking, and the method is to hammer the wedge of ID into science at its most vulnerable point: public education. In Johnson's own words:

> So the question is: "How to win?" That's when I began to develop what you now see full-fledged in the "wedge" strategy: "stick with the most important thing," the mechanism and the building up of information. Get the Bible and the Book of Genesis out of the debate because you do not want to raise the so-called Bible-science dichotomy. Phrase the argument in such a way that you can get it heard in the secular academy and in a way that tends to unify the religious dissenters. That means concentrating on, "Do you need a Creator to do the creating, or can nature do it on its own?" and refusing to get sidetracked onto other issues, which people are always trying to do.

Johnson was even more explicit in 1999 in remarks to a conference on "Reclaiming America for Christ." Rob Boston reported Johnson's remarks in *Church & State* magazine:

> Johnson calls his movement "The Wedge." The objective, he said, is to convince people that Darwinism is inherently atheistic, thus shifting the debate from creationism v. evolution to the existence of God v. the nonexistence of God. From there people are introduced to "the truth" of the Bible and then "the question of sin" and finally "introduced to Jesus."

Other major figures in the ID movement have been equally clear about their religious motivations. Here is Dembski:

> But there are deeper motivations. I think at a fundamental level, in terms of what drives me in this is that I think God's glory is being robbed by these naturalistic approaches to biological evolution, creation, the origin of the world, the origin of biological complexity and diversity. When you are attributing the wonders of nature to these mindless material mechanisms, God's glory is getting robbed.

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And here is Jonathan Wells, a member of Reverend Moon's Unification Church:

> Father's [Reverend Moon's] words, my studies, and my prayers convinced me that I should devote my life to destroying Darwinism, just as many of my fellow Unificationists had already devoted their lives to destroying Marxism. When Father chose me (along with about a dozen other seminary graduates) to enter a Ph.D. program in 1978, I welcomed the opportunity to prepare myself for battle.

DO THESE PEOPLE REALLY BElieve in intelligent design? There is no reason to think otherwise. They are not lying for their cause, but sincerely hold that life on earth reflects a succession of miracles worked by a supernatural agent. In fact, they view evolutionists as the duplicitous ones. In an interview in *The Sacramento Bee* in 1991, Johnson proclaimed that "scientists have long known that Darwinism is false. They have adhered to the myth out of self-interest and a zealous desire to put down God." Never mind that many scientists, including evolutionists, are religious.

Given the overwhelming evidence for evolution and the lack of evidence for ID, how can intelligent people hold such views? Is their faith so strong that it blinds them to all evidence? It is a bit more complicated than that. After all, many theologians and religious people accept evolution. The real issues behind intelligent design—and much of creationism—are purpose and morality: specifically, the fear that if evolution is true, then we are no different from other animals, not the special objects of God's creation but a contingent product of natural selection, and so we lack real purpose, and our morality is just the law of the jungle. Tom DeLay furnished a colorful example of this view on the floor of the House of Representatives on June 16, 1999. Explaining the causes of the massacre at Columbine High School, he read a sarcastic letter in a Texas newspaper that suggested that "it couldn't have been because our school systems teach the children that they are nothing but glorified apes who have evolutionized out of some primordial soup of mud."

The notion that naturalism and materialism are the enemies of morality and a sense of human purpose, and that religion is their only ally, is pervasive in the writings of IDers. As Johnson noted, "Once God is culturally determined to be imaginary, then God's morality loses its foundation and withers away." Nancy Pearcey, a senior fellow of the Discovery Institute's Center for Science and Culture, summarizes why evolution disturbs so many Americans:

> Why does the public care so passionately about a theory of biology? Because people sense intuitively that there's much more at stake than a scientific theory. They know that when naturalistic evolution is taught in the science classroom, then a naturalistic view of ethics will be taught down the hallway in the history classroom, the sociology classroom, the family life classroom, and in all areas of the curriculum.

Even some parents in Dover, though opposed to teaching ID in school, worry that learning evolution will erode the Christian values that they are trying to instill in their children.

But the acceptance of evolution need not efface morality or purpose. Evolution is simply a theory about the process and patterns of life's diversification, not a grand philosophical scheme about the meaning of life. Philosophers have argued for years about whether ethics should have a basis in nature. There is certainly no logical connection between evolution and immorality. Nor is there a causal connection: in Europe, religion is far less pervasive than in America, and belief in evolution is more widespread, but somehow the continent remains civilized. Most religious scientists, laymen, and theologians have not found the acceptance of evolution to impede living an upright, meaningful life. And the idea that religion provides the sole foundation for meaning and morality also cannot be right: the world is full of skeptics, agnostics, and atheists who live good and meaningful lives.

BARRING A MIRACLE, THE DOVER Area School District will lose its case. Anyone who bothers to study ID and its evolution from earlier and more overtly religious forms of creationism will find it an unscientific, faith-based theory ultimately resting on the doctrines of fundamentalist Christianity. Its presentation in schools thus violates both the Constitution and the principles of good education. There is no secular reason why evolutionary biology, among all the sciences, should be singled out for a school-mandated disclaimer. But the real losers will be the people of Dover, who will likely be saddled with huge legal bills and either a substantial cut in the school budget or a substantial hike in property taxes. We can also expect that, if they lose, the IDers will re-group and return in a new disguise even less obviously religious. I await the formation of the Right to Teach Problems with Evolution Movement.

IDers have been helped by Americans' continuing doubts about the truth of evolution. According to a Gallup poll taken last year, 45 percent of Americans agree with the statement, "God created human beings pretty much in their present form at one time within the last 10,000 years." Asked if evolution is well supported by evidence, 35 percent of Americans said yes, 35 percent said no, and 29 percent said they lack the knowledge to reply. As a rationalist, I cannot help but believe that the first group would swell were Americans to be thoroughly taught the evidence for evolution, which is rarely done in public high schools. I have seen creationist students become evolutionists when they learn about biogeography or examine the skulls of mammal-like reptiles. What we need in the schools is not less teaching of evolution but more.

In the end, many Americans may still reject evolution, finding the creationist alternative psychologically more comfortable. But emotion should be distinguished from thought, and a "comfort level" should not affect what is taught in the science classroom. As Judge Overton wrote in his magisterial decision striking down Arkansas Act 590, which mandated equal classroom time for "scientific creationism":

> The application and content of First Amendment principles are not determined by public opinion polls or by a majority vote. Whether the proponents of Act 590 constitute the majority or the minority is quite irrelevant under a constitutional system of government. No group, no matter how large or small, may use the organs of government, of which the public schools are the most conspicuous and influential, to foist its religious beliefs on others. ■

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David A. Bell
Brushes With Power

JACQUES-LOUIS DAVID: EMPIRE TO EXILE
By Philippe Bordes
(Yale University Press, 379 pp., $75)

IN A BRILLIANT SCENE IN Andrzej Wajda's film *Danton*, Robespierre, the guiding spirit of the Reign of Terror, pays a visit to the studio of the painter Jacques-Louis David. On a wall, he sees David's unfinished tableau of *The Tennis Court Oath*, depicting a central event of the early French Revolution. Robespierre points to one of the men whom David has sketched in, and says coldly: "He was not there." "Yes, he was," David protests. "He was not," Robespierre repeats, "and besides, he's a traitor. Take him out." And he marches off, leaving the painter mutely to comply with his dictates.

The scene never actually took place. It is the Polish director's allegory of Stalinist airbrushing, produced in the dark time of General Wojciech Jaruzelski. But its plausibility reveals something of the uneasiness that David's career, with its tight braiding of art and politics, can still generate, more than two hundred years after the French Revolution. No great figure in Western art had a more intense involvement with radical politics than this presiding genius of Neoclassicism, and none was more compromised by it. From 1792 to 1794, David sat as a member of the French National Convention. He belonged to the Committee of General Security, a key body in the implementation of the Terror. He voted to condemn King Louis XVI to death, and narrowly escaped going to the guillotine himself in 1794. (He did spend time in prison.) And in his monumental work *The Death of Marat*, he produced a painting that transforms one of the most repellent and murderous demagogues of all time into a martyr of Christ-like dimensions. The fact that the painting is also one of the greatest pieces of political art of all time, the *Pietà* of the revolutionary age, makes it even more disquieting.

Predictably enough, it is not the political art of the Terror that has prompted the most consistent reproofs of David. Radicalism, however sanguinary, will often be excused on the grounds of its sincerity. David has attracted the most scorn for the work that he produced in the last quarter-century of his life, particularly in the service of Napoleon. Consider *Napoleon Crossing the Saint-Bernard*, the painting that first greets visitors to "Jacques-Louis David: Empire to Exile," the current exhibition at the Sterling and Francine Clark Institute in Williamstown. It is still the most familiar image of Napoleon—think brandy advertisements—and its astonishing evocation of the whipping wind and the rearing horse, its dramatic rendition of an individual set alone against the elements, represents the closest that David, a cool admirer of Poussin, ever came to Romanticism.

Originally commissioned for the king of Spain, the painting also served an important propaganda purpose, implicitly attributing the successes of the Second Italian Campaign of 1800 to Napoleon's genius alone (rather than, say, to the revolutionary fervor of his armies). It therefore helped pave the way for the replacement of the first French Republic by a hereditary Napoleonic Empire. And it was only the first of many works of fawning adoration that David would produce of the man who would soon appoint him his First Painter, commanding vast fees. The artist's radicalism had apparently decomposed into nothing but simple, selfish opportunism. The speed of the transition disgusts David's critics, and leaves even his admirers uneasy.

This unease is one of two reasons why David's work in this period has never before been the subject of a major exhibition. (I will come to the second reason in a moment.) And it is a bad reason. David was never anything remotely like a hack, and his work for Napoleon was often powerful and brilliant. Moreover, it grew out of far more than just opportunism. If some of the paintings done between 1799 and 1815 lack the inspiration of David's pre-revolutionary and revolutionary periods, others vividly convey the thrill that so many of the French felt at living in what seemed like a new age of Alexander. The dazzling victories that came between 1800 and 1809—Marengo, Ulm, Austerlitz, Jena, Friedland, Wagram—together with Napoleon's ability to restore order and prosperity to a country wracked by revolutionary chaos and civil war, generated very real support and excitement, and made the emperor a mythical figure. Even Chateaubriand, who despised Napoleon's tyranny, called him a "poet of action."

Today we find Napoleon's militaristic cult of personality sinister and kitschy, rendering David's support for it only somewhat less disturbing than his earlier allegiance to Robespierre. Still, there is every reason to assume that the Napoleonic enthusiasm of the painter, whose twin daughters both married Napoleonic generals, was genuine, and inspirational. Back home in 1807, after a long stay in Italy, he wrote that France seemed to have become a literally brighter, more sharply defined place since the coming of the Empire: "it seemed to me on my return that I had just had a cataract operation."

THE WORKS CHOSEN FOR THE Clark exhibition (which was earlier shown at the Getty Center in Los Angeles, and is in Williamstown until September 5) give an excellent sense of what he meant. The Napoleonic grandees who commissioned portraits from David, resplendent in their gaudy uniforms, are the very incarnation of imperially conspicuous wealth and power. Antoine Français de Nantes, who collected taxes from an empire that stretched from Hamburg to Barcelona and Dubrovnik, seems practically to disappear under his almost comically splendid blue costume. David's son-in-law Claude-Marie Meunier, painted with broad, rapid, very un-Davidian brushstrokes, has an expression of amused boldness, while the red ribbon of the Legion of Honor gleams brightly against his intricate gold-embroidered black uniform.

And then there is Napoleon himself, in the *Saint-Bernard*, and in David's other great portrait of him, from 1811, *Napoleon in His Study*. This work, a civilian pendant to its predecessor, shows the emperor rising from his desk

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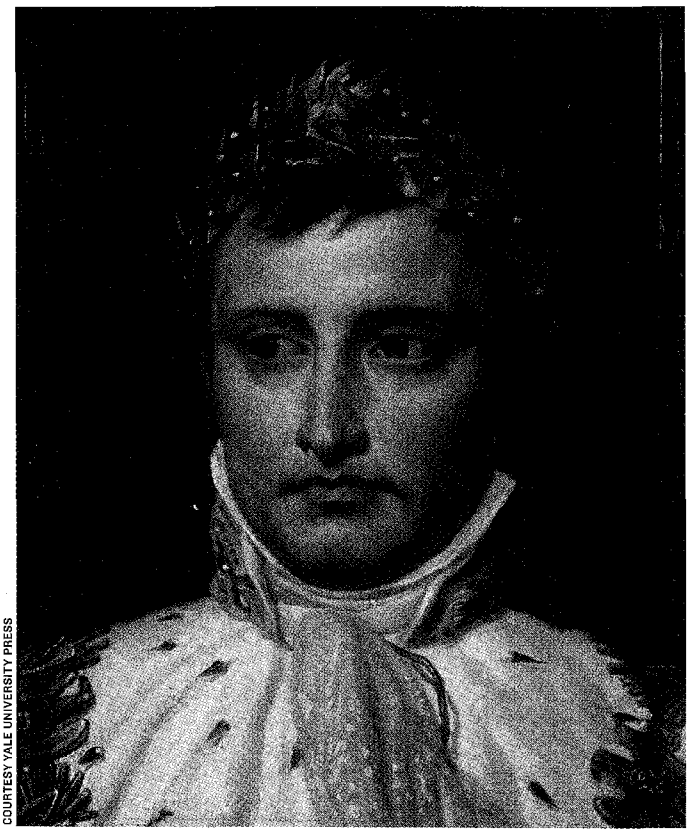
at 4:12 a.m., candles guttering in the lamp, having just put in a full night working on his new Civil Code. Here there are no Alps to conquer, only the mountains of frustrating legal paperwork that had bedeviled the French for centuries, and which the Code indeed reduced to manageable proportions. But David conveys the same sense of Herculean dedication and superhuman ability as before. The *Saint-Bernard* may have been pure myth-making (Napoleon actually crossed the Alps on a mule, wrapped in a greatcoat), but *Napoleon in His Study* gives a perfectly accurate picture of the emperor's eighteen-hour-a-day work habits. As Talleyrand famously quipped, "What a pity the man wasn't lazy."

Art historians have often speculated about a continuing sentimental loyalty to the Revolution on David's part, but there is little trace of it in these works. Perhaps it shows through, faintly, in his sympathetic portrait of the daughter of the Jacobin martyr Le Peletier de Saint-Fargeau, from 1804. Perhaps it comes out in the thicket of bayonets that rise up in the very lower right of *Napoleon Crossing the Saint-Bernard*, recalling revolutionary engravings of the people in arms—but this is a tiny detail. Philippe Bordes, in his engrossing book that is the catalogue to the show, quotes David's supposed words upon hearing of Napoleon's coup d'état: "Well, I had always thought for sure that we were not virtuous enough to be republicans." The note of resignation, as well as the false and boastful claim to prescience, rings true.

The best sense of the older David's changing political attitudes comes less in his depiction of his contemporaries than in his paintings of classical subjects. David made his reputation, before the Revolution, with utterly stern, uncompromising visions of classical republican virtue: particularly *The Oath of the Horatii* in 1784 and *Victors Bringing Brutus the Bodies of His Sons* in 1789. In the latter, a hero of the early Roman republic, having ordered the execution of his own sons for treason, sits somberly, in shadow, as their bodies are brought to him: an Abraham who went through with the deed. To highlight Brutus's total dedication and self-command, the painter sets the dark figure off against his brightly lit wife and daughters, who watch the scene in a state of wild, despairing grief. No work of art better captured the mentality that allowed the Jacobins to feel virtuous in sending tens of thousands of their fellow citizens to the guillotine. No work of art helped more to inspire them to do so.



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JACQUES-LOUIS DAVID, *Napoleon Bonaparte*, circa 1806–1808

In his later work, by contrast, David preferred Greece to Rome, mythology to history. These paintings (on the whole rather inferior) mostly lack the earlier contrast of light and darkness, preferring cheerful, almost pastel colors. The sharp gender distinctions (which foreshadowed literal attempts to expel women from the public sphere) are missing as well. A painting from 1819 titled *The Anger of Achilles* again returns to the subject of a parent's slaughter of a child—in this case, Agamemnon's sacrifice of Iphigenia to gain a favorable wind from the gods on the eve of the Trojan War. But here David has twisted the story to make Achilles into Iphigenia's betrothed, and highlights the great warrior's rage at the manifestly unjust deed. Other works, such as a crayon drawing of *The Departure of Hector*, from 1812, infuse the male figures with a tenderness that the earlier David might have frowned on.

Bordes's marvelously produced catalogue, while meticulous and informative, does not really do enough to convey such points. Divided into separate essays on different aspects of David's late career, it assumes a great deal of prior knowledge, and never provides a full introduction to the painter's life or to the period in which he lived. Yet if the book will occasionally overwhelm or frustrate the casual reader, cognoscenti will delight in the wonderfully complete detail on each picture, not to mention the oblique, caustic little jabs at colleagues that Bordes occasionally delivers. The world of David scholarship, as befits its subject, is not a gentle place. Bordes also does an excellent job of relating David's art to his more material preoccupations—especially the painter's anxious desire to bestow huge dowries, worthy of an old-regime nobleman, upon his twin daughters. As the catalogue reminds us, David was one of the first Western artists to demand that the public buy tickets to see his work—he needed the money, he explained, to provide himself with "the noble independence proper to genius."

As this quotation suggests, Bordes's readers will also get a very good sense of another crucial factor in David's work: his sense of self-importance. Hailed while still in his thirties as the greatest painter of modern times, David rarely hesitated to describe himself as a "genius," or to boast that he had put the French School "at par with the great period of the Italian School." In the unsatisfying and long-unfinished painting *Alexander, Apelles, and Campaspe*, he clearly meant to compare himself to the most renowned of Greek artists, while casting Napoleon in the familiar role of Alexander, who supposedly gave Apelles his favorite mistress. David's difficulties with the work may well reflect his frustrations with his

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imperial patron, who in later years disparaged the huge, ambitious tableau *Leonidas at Thermopylae* because he did not like the subject of military defeat, and did not hesitate to play his favorite artists off against each other. On first seeing the sublime *Napoleon on the Battlefield of Eylau*, painted in 1808 by David's former student Antoine-Jean Gros, the emperor said nothing, but removed the ribbon of the Legion of Honor from his own chest and pinned it on the artist. One can only imagine the reaction of the "First Painter" upon hearing the story.

David's self-importance may also help explain why he changed his Neoclassical style so little after making his reputation in the 1780s. Viewers of his paintings from the early 1820s may notice some changes in tone and color from the days of *Brutus*, due perhaps to the influence of the Flemish School (he was living in Brussels). It remains hard to believe that in the very same years Delacroix, Géricault, Turner, and Friedrich were producing some of the most powerful works of the Romantic movement in painting.

Suppliant, Late April

To you, three sisters, I bring the bud, the branch,
the thorn,
for the trees have recovered greenness.
I have no other reason.

All month—all century—the storms.
Word of a suicide. The body hung
three days unburied. The earth has broken open.

My love and I have lain as on
a precipice. Her fevered thoughts
have left the pillow torn.

By this dream, let stem
your furies for a season,
O kindly ones?

TODD HEARON

MERCIFULLY FOR THE CASUAL reader, Bordes avoids the feminist and psychoanalytical approach that has characterized much recent David scholarship, particularly Ewa Lajer-Burcharth's influential book *Necklines: The Art of Jacques-Louis David After the Terror*. Her dense Lacanian study has much to offer, particularly in regard to David's explorations of gender roles, and the changing relation in his work between the body and the sense of individual character—of the self. But like too many art historians today, Lajer-Burcharth has a tendency to zoom beyond such close analyses into the cloudy realm of high-theoretical speculation, as in this riff on David's famous prison self-portrait of 1794 (on display at the Clark), in which the painter put his left cheek in shadow to hide a disfiguring tumor: "David's cheek thus announces itself as the site of that fraught symbolic transaction with language for which one always has to pay with a 'pound of flesh'—a sign, that is, of *symbolic* castration that accompanies all subjects' entry into language." For Bordes, thankfully, an ugly tumor is sometimes just an ugly tumor.

The exhibition at the Clark, laid out with admirable clarity and restraint, generally avoids any risky galloping along the art-historical frontier. Where historians have energetically discussed David's debts to Lavater and the emerging science of "physiognomy," the exhibition satisfies itself with helpfully putting a contemporary book of physiognomic "types" on display; where feminist scholars have debated the meanings of changing female costume after the Terror, the show simply provides a contemporary book of engravings of fashion, and lets the visitors draw their own conclusions.

And the exhibition reveals, quite unexpectedly, a pawky, even playful streak in a painter usually regarded as a master of high historical tragedy. After finishing his portrait of the sensually plump Comtesse Daru in 1810, we learn, David could not help confessing to "indiscreet thoughts" about her. In one of two splendid portraits of the Comte Turenne from 1816, he placed the young nobleman's coat of arms inside his hat, where one would expect the manufacturer's label.

YET THERE IS A PROBLEM WITH this sumptuous and original revival of David's art. It is the other reason why David's late career has never before been the subject of a major exhibition: three of the painter's most important later works—*The Coronation, The Distribution of the Eagles*, and *Leonidas at Thermopylae*—are so mammoth, collectively measuring over fifteen hundred square feet, as to make their transportation an expensive improbability. They are all in Paris or Versailles, and they have not, to my knowledge, been brought together even there, to say nothing of in California or Massachusetts. Any exhibition of David's last quarter-century therefore runs the risk of having a *Hamlet*-without-the-prince quality, and of losing sight of the monumentally ambitious scale on which David worked throughout much of the First Empire.

In an effort to make up for the absence of the three giants, the curators have substituted a series of studies that David carried out while working on them: the head of one of Josephine's ladies-in-waiting for *The Coronation*, a sketch of one of the emperor's guardsmen for the *Eagles*, compositional studies for *Leonidas*, and so forth. Among other things, these studies display David's superlative skill with a black crayon. But set alongside the many other small drawings on display and the impressive series of life-size portraits, they give the misleading impression of a painter most comfortable working on a small scale. It requires careful reading of the exhibition materials, and a certain imaginative effort, to keep in mind that during much of the period David was not, for the most part, working in solitude on portraits and drawings, but directing the efforts of a large atelier to produce paintings of huge size, complexity, and ambition.

For the same reason, the exhibition fails fully to convey the disjuncture between David's career under Napoleon and what followed in the last decade of his life. After the fall of the Empire in 1815, not only did the painter lose his best and wealthiest client, but the restored Bourbon monarchy banished him from France, on account of his vote to decapitate the king's elder brother in 1793. Nearly seventy years old, David moved to Belgium, where he remained active, painting portraits and private commissions, but on a terribly reduced scale. The artist who had spent much of his career providing the definitive vision of climactic moments in world history was now reduced to sympathetic little portraits of fellow exiles. At the Clark, the striking oil of General Maurice-Étienne Gérard jostles with several far less inspired portraits and some versions of Greek myths

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that stray toward the insipid.

And so, despite the fact that David preserved a remarkable technical skill until the end of his life, the story ends on a plangent note. Political disillusionment, professional disaster, and old age combine to produce their inevitable result. Yet one has only to remember how close David came to execution in 1794 to realize that for all the trauma of his exile and decline, he was still a very lucky man. One has only to reflect on how many other people he helped send to the guillotine to wonder whether he deserved his luck. And one has only to gaze on the seductively glorious portrait of Napoleon crossing the Saint-Bernard—"the world-spirit [. . .] on horseback, stretching out to dominate the world," as Hegel famously remarked after glimpsing the emperor from his window in 1806—to recall that great political art and great political virtue finally have very little to do with each other. ■

CORRESPONDENCE

continued from page 4

OREN SAYS THAT *THE DOWNFALL* "is not about [Adolf] Hitler, human or otherwise, not about Nazism and evil. It is about letting Germany off the hook." He has missed the point. It is a harrowing film about the panic and confusion in Hitler's bunker as the Russians approached Berlin. It offers no apologies and pulls no punches. Hitler and his henchmen are there in all their monstrous humanity, none more monstrous than Bruno Ganz's Hitler, in a wonderful portrayal. The panic and confusion in the city are there, too, wrenchingly displayed. Magda Goebbels is shown as she goes, calmly and implacably, about the business of killing her children, an almost unbearable scene. Some hook, some exculpation. Oren seems to think that Hitler and the other leaders of the Third Reich should only be shown with horns and hooves. But their humanity is part of their wickedness. Anyone who thinks that wicked people are somehow not human has a more optimistic view of humanity than I, for one, can muster.

JOE ROEBER
London, England

OREN IS RIGHT TO QUESTION THE strange embrace by Israeli audiences of *The Downfall*. But his point is most interesting in the context of another recent movie that provoked controversy. Jewish newspapers across the United States and Israel—as well as prominent Jewish intellectuals—accused *The Passion* of being an anti-Semitic diatribe (and not merely a wretched movie) and feared that its showing would reawaken the worst form of anti-Semitism. The imminent release of *The Passion* provoked a yearlong debate in every form of media. Contrast that treatment with the treatment that Oliver Hirschbiegel's sympathetic look at Hitler in *The Downfall* received. There was hardly a peep by the Anti-Defamation League (ADL) or the Zionist Organization of America or *The Jerusalem Post*. Instead, as Oren points out, "Israelis are still lining up to see [*The Downfall*]." I find it strange, and worthy of further investigation, that Jewish communities around the world find that a sympathetic portrayal of Pontius Pilate is unbearable and revisionist but that a sympathetic look at Hitler and his cohort deserves no debate.

MOSHE ZVI MARVIT
Pittsburgh, Pennsylvania

OREN CLEARLY WANTED TO SEE *The Downfall* populated by *Indiana Jones*–style Nazi automatons who get their comeuppance in the final ten minutes. Such a film may have been fleetingly satisfying, but it would hardly have been thought-provoking (to say nothing of historically accurate). Instead, in *The Downfall*, we find a beast far more frightening and, I think, valuable to modern discourse. Rank-and-file Nazis were ordinary people caught up in a regime of extraordinary evil. It is perfectly reasonable—even nuanced and sophisticated—to recognize that the German people were at once victims themselves, yet also accomplices of Hitler. *The Downfall* couldn't be clearer on this point: The entire ending sequence has an elderly Junge lamenting not only her membership in the Nazi party, but also her supposition for years afterward that she wasn't culpable because she was "never an enthusiastic Nazi." That the Nazi machinery, including even the Führer, was made up of all-too-human nuts and bolts is the true point of *The Downfall*, and the only person who missed it was Oren himself.

ERNIE TEDESCHI
Erfurt, Germany

MICHAEL B. OREN RESPONDS: The readers who insist that *The Downfall* was not intended to "let Germany off the hook" but to portray Germans as Nazi victims are themselves victims of a deeply manipulative film. The version I saw did not, in fact, include Traudl Junge's discussion of Sofie Scholl, but even if it had, it would not have justified the disingenuousness of presenting Junge, a veteran Nazi married to an SS officer, as a political and sexual innocent. Nor did *The Downfall*'s brief depiction of Hitler's "humanity"—as opposed to his insanity, lavishly displayed throughout the film—mitigate its director's attempt to lionize SS Dr. Ernst-Günter Schenck, to dissemble the war crimes records of Generals Keitel, Mohnke, and Jodl, or to rehabilitate Albert Speer. Such whitewashing was done with the purpose of distinguishing between those Germans who, though temporarily misguided, remained brave and principled, and those few Germans who, like Magda Goebbels, were too deranged to bear full responsibility for their actions. The result is a movie that challenges its audience to resist the urge to root for the helmeted Junge and her SS friends as they try to escape from the dreaded Russians—to see these Nazis as victims worthy of commiseration. These readers, it seems, failed to resist that urge. *The Downfall* deals with exonerating the Germans, not with vilifying the Jews, which, according to the ADL and other Jewish organizations, was a prime objective of *The Passion*. Criticizing *The Downfall* is not, therefore, primarily a Jewish responsibility but rather a task for the Germans. And some indeed have done so. I heartily recommend a new documentary, *The Last Witness*, about Hitler's telephone operator, in which several Germans express the same exceptions to *The Downfall* that I conveyed in my review. ■

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WASHINGTON DIARIST

Creations

THE CUNNING SOULS WHO propound intelligent design are playing with fire, because they have introduced intelligence into the discussion. It is a standard to which they, too, must be held. The theory of intelligent design must itself be intelligently designed. I cannot judge the soundness of their science, but that is not the only standpoint from which they must be judged. Their science, after all, is pledged to a philosophy. Philosophically speaking, I do not see that they have demonstrated what they congratulate themselves for demonstrating. The "argument from design," the view that the evidence for the existence of God may be found in the organization of the natural world, is an ancient argument, but philosophers have grasped, at least since the sixth section of the third chapter of the second book of the *Critique of Pure Reason*, that it may establish only the wisdom of a creator, and not the existence of one. It is impossible, of course, not to marvel at the complexity and the beauty of the natural order; but marveling is not thinking. The mind may recoil from the possibility that all this sublimity came into being by accident, but it cannot, on those grounds alone, rule the possibility out, unless it is concerned only to cure its own pain. (Cosmic accident is also an occasion for awe.) Intelligent design is an expression of sentiment, not an exercise of reason. It is a psalm, not a proof.

INTELLIGENT DESIGN WAS CONCEIVED AS the solution to a religious problem, not a scientific one. The problem is that the cosmogony in Genesis does not resemble what we know about the origins of the world. Which is to say, intelligent design was prompted by the consequences of literalism in the interpretation of Scripture. Now, there is no more primitive form of monotheistic religion than this. If you believe that the world was created by God in six days because the Bible says so, then you must also believe that the Israelites saw God's hand, because the Bible says so, and that Moses beheld God's face, because the Bible says so, and that God's feet will stand on the Mount of Olives, because the Bible says so, and so on. The intellectual integrity of monotheism depends upon the repudiation of such readings. Sanctity is not an excuse for stupidity. But once the legitimacy of figurative reading is admitted, the fabled dissonance between science and faith, the fundamentalist melodrama, evaporates. Was the world made in six days? Then "days" must not mean days, and may mean many millions of years. Was man "formed . . . of the dust of the ground"? Then "formed" must not mean whole and at once, and "the dust of the ground" must refer to some unspecified variety of physical origination. Otherwise Scripture is wrong—but according to the believer Scripture cannot be wrong. And so the believer may turn comfortably to science, without the dread of heresy. Truth is never heresy, except for those who make their religion vulnerable to truth.

I DO NOT MEAN TO GLOAT. IF YOU WERE raised on Scripture as a child, if the Bible was your first enchantment, then it is not an easy matter to pull slightly away, to confer upon your improvising intellect so much power over its significations. I remember my torments, in the holy and walled city of Brooklyn, on the subject of *dat u'madda*, religion and science; but I recall them also as the philosophical characteristics of adolescence. There really is something childish about the notion that everything is exactly as the Bible says it is: this is the spell of fairy tales. I was eventually released from my anxiety about the freedom of my mind by a startling passage in Maimonides, who is not for children. Almost perversely, he wished his students to know that his belief in the creation of the world was not owed to the Bible's account of the creation of the world. This is how he denied them a fundamentalist satisfaction: "Know that our shunning the affirmation of the eternity of the world is not due to a text figuring in the Torah according to which the world has been produced in time. For the texts indicating that the world has been produced in time are not more numerous than those indicating that the deity is a body. Nor are the gates of figurative interpretation shut in our faces . . . regarding the subject of the creation of the world in time. For we could interpret them as figurative, as we have done when denying His corporeality." If science could prove that the world was eternal, then the eternity of the world would by some hermeneutical means accord with Scripture. If science can prove that man evolved over millions of years from other species, ditto. The gates of figurative interpretation were opened in my face, and I grew up.

ON JULY 7, *THE NEW YORK TIMES* published an article by Cardinal Schönborn of Vienna. It was submitted to the paper by the public-relations firm that represents the Discovery Institute, a hotbed of intelligent design in Seattle. Denouncing materialism, the cardinal wrote to register a doctrinal disagreement: "Evolution in the sense of common ancestry might be true, but evolution in the neo-Darwinian sense—an unguided, unplanned process of random variation and natural selection—is not. Any system of thought that denies or seeks to explain away the overwhelming evidence for design in biology is ideology, not science." This is scholastic smoke. An unplanned process may also be God's plan, an instrument of providence. God's will may take many forms. The cardinal seems to have resurrected the old Islamic idea of "occasionalism," known in its Western version from the writings of Malebranche, to get in on the anti-Darwinist action. This was the view that the belief in natural causes is an offense to God's omnipotence, and the acknowledgment of such causes a descent into the pagan worship of nature.

I HAD THOUGHT, IN MY JUDAIC INNOcence, that Aquinas had gloriously secured natural causality for the Church once and for all. Now I must suppose that the Church's unsophisticated new construction of God's will is a manifestation of God's wisdom. For His agents on earth have cultural uses for anti-Darwinism. They think it will make us good, because Darwin makes us bad. No doubt this is why President Bush wants "to expose people to different schools of thought," and have intelligent design taught alongside evolution: to retard our corruption. But isn't the idea that morality is founded in nature itself a sin of materialism? And are we to teach other false ideas alongside other true ones? I do not want my son to waste his time on phlogiston. I mean, what is truth? The question is begged yet again, this time by the pomo of Crawford.

LEON WIESELTIER

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Why Has Latin America Turned Left?

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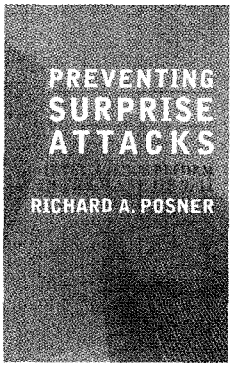

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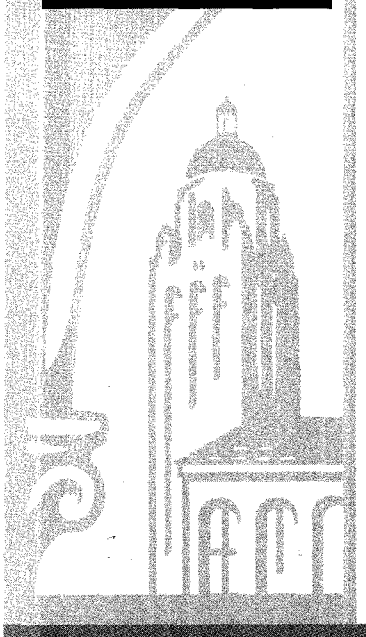

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In the past five years, Latin American governments that came to power in the 1990s and favored privatization, deregulation, and the opening of their borders to foreign trade and investment have been swept aside and replaced by presidents who lean to the left.

In Brazil, the Workers' Party candidate, Luis Inácio Lula da Silva, was elected to the presidency in 2002. The following year, Argentina elected a left-leaning Peronist, Nestor Kirchner; earlier this year in Uruguay, Taberé Vázquez's election ended 150 years of electoral dominance by the country's two established political parties. Venezuela retained Hugo Chavez and his "Bolivarian revolution" in a national referendum in August 2004. Bolivia has yet to elect a leftist president but is likely to do so. That country's "Movement toward Socialism" has forced President Carlos Mesa to resign and has signaled that potential successors will be met with similar resistance. Mexico also appears poised to follow in the footsteps of its southern neighbors; the leading contender in the 2006 presidential elections is Andres Manuel Lopez Obrador, the populist mayor of Mexico City.

What accounts for this sea of change in Latin American politics? Have Latin American voters undergone a profound ideological transformation in half a decade? Or do other factors explain the defeat of politicians who espoused free markets by those whose rhetoric echoes a more populist past?

Latin America's anemic economic performance explains the leftward shift in its politics. With the exceptions of Chile and Costa Rica, the economies of Latin America have limped along for the past two decades. In the 1980s, Latin America's economies nose-dived as a result of decades of protectionism, government intervention in markets, and deficit spending. In the 1990s, in ar effort to turn things around, Latin American governments opened up their economies to foreign trade and investment, cut spending, and sold off state-owned enterprises, with promises of rapid economic growth. Those reforms did produce positive impacts but not of the magnitude that populations expected. Indeed, most countries grew just enough to make up for their contraction in the 1980s; Mexico's per capita GDP in 2004, for example, was only 15 percent greater than it had been in 1982.

Meanwhile, Latin America's labor force proliferated. Most of the Latin American population is young—recently entering, or about to enter, the workforce. Given that a majority of voters have entered the labor force since the early 1980s and encountered a dearth of opportunities, it is not surprising that they have been receptive to more heterodox approaches to economic policymaking. Equally unsurprising is the new Latin American governments' lack of enthusiasm for U.S. proposals for a hemisphere-wide free trade area.

The implication for U.S. policy is clear: if policymakers are concerned about the leftward shift in Latin America, they should concentrate on helping the region grow. This help will need to go well beyond free trade. Indeed, they might take a page out of the experience of the EU, whose wealthier nations have helped subsidize public investment in its poorer partners.

—Stephen Haber

Stephen Haber is the Peter and Helen Bing Senior Fellow at the Hoover Institution. He is also the A. A. and Jeanne Welch Milligan Professor in the School of Humanities and Sciences.

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